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ABSTRACT

This document reports the oral and written testimony given at a hearing on the exploitation of children and teenagers in the workplace. Witnesses included officials of fast food chains and other businesses, Labor Department officials, employees of fast food chains and their parents, and parents of children who were killed or injured while working. Testimony centered on how many hours children work, the problems of regulating franchisees' uses of child labor, the necessity of children spending more time on studies, and the flagrant and widespread abuse in hours and safety rules being committed in the United States. Testimony also noted that in other industrialized countries, such as Germany and Japan, students rarely work. Many instances of injuries were cited. Department of Labor statistics on violations were also discussed, and law enforcement efforts were encouraged. (KC)

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CHILDREN AT RISK IN THE WORKPLACE

ED334359

HEARINGS

BEFORE THE

EMPLOYMENT AND HOUSING SUBCOMMITTEE

OF THE

COMMITTEE ON
GOVERNMENT OPERATIONS
HOUSE OF REPRESENTATIVES

ONE HUNDRED FIRST CONGRESS

SECOND SESSION

MARCH 16 AND JUNE 8, 1990

Printed for the use of the Committee on Government Operations

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CHILDREN AT RISK IN THE WORKPLACE

FRIDAY, MARCH 16, 1990

House of Representatives,
Employment and Housing Subcommittee
of the Committee on Government Operations,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:40 a.m., in room 2247, Rayburn House Office Building, Hon. Tom Lantos (chairman of the subcommittee) presiding.

Present: Representatives Tom Lantos, Robert E. Wise, Jr., and Christopher Shays.

Also present: Stuart Weisberg, staff director and counsel; Joy Simonson, professional staff member; June Livingston, clerk; and Jeff Albrecht, minority professional staff, Committee on Government Operations.

OPENING STATEMENT OF CHAIRMAN LANTOS

Mr. Lantos. The Subcommittee on Employment and Housing will please come to order.

The subcommittee turns today to a subject which may sound old to some, yet is all too current. The exploitation of children and teenagers in the workplace continues and is increasing as we enter the last decade of the 20th century.

Just this past week, the Department of Labor charged Burger King, the second largest fast food chain in the country, with violating child labor laws at some of its 800 company owned restaurants. This gives new meaning to Burger King's heavily promoted "Kids Club Meals." Until this action by the Labor Department many people thought the biggest risk at Burger King was eating the french toast sticks. [Laughter.]

The fact that such a large employer of young people has allegedly been violating child protection laws in many States over many years by working 14 and 15 year olds more hours than the law permits and by assigning young workers under the age of 18 to perform hazardous tasks does not speak well for past enforcement efforts by the Department of Labor.

I am very much encouraged by Labor Secretary Elizabeth Dole's commitment "to protect America's children" and I have no doubt of her sincerity in wanting to achieve this goal. This subcommittee will give her all conceivable help to do just that. Just as this subcommittee assisted Secretary Kemp in cleaning up the swamp at HUD, this subcommittee is determined to assist Secretary Dole to deal with the child labor abuse crisis that is sweeping America.

This week the Labor Department at Secretary Dole's direction conducted a 3-day nationwide sweep searching for violations of child labor laws. In just 3 days Labor Department inspectors found over 7,000 illegally employed minors—almost as many as were found during the entire year of 1985. I hope that this action by the Labor Department will be the beginning of a major and ongoing crackdown on child labor scofflaws.

Since 1938 we have had the Fair Labor Standards Act and its regulations which prohibit most paid employment under the age of 14, limit the hours which 14 and 15 year olds may work, and prohibit employment under age 18 in specified hazardous occupations, including meatprocessing, construction, operating power-driven machines, baking, and commercial driving. Minimum wage requirements, now modified by training wage provisions, apply to young workers also. Many States have similar laws, a few of them stricter than the Federal statute. Thus, we have both Federal and State enforcement personnel.

Yet, the number of child labor violations has been rising sharply in recent years. The Department of Labor reports an increase from 9,000 in 1983 to about 22,500 last year. While the majority of these violations involved hours of work—either too late at night or too many hours in a week—some 2,000 were children under 14, and over 6,500 employers were cited for having workers under 18 in dangerous, prohibited occupations. With fewer than a thousand compliance officers responsible for detecting all Fair Labor Standards Act violations in the country, we can feel sure that this is only the tip of a huge iceberg.

Work for limited periods and with appropriate safeguards can be a constructive force in a youngster's development. Orientation toward the responsibilities of work, learning some skills, and contributing toward support of oneself or one's family can be desirable results of after school employment. But all too often the jobs available to teenagers involve hazardous tasks. Work not only competes with education, which is the primary job and responsibility of minors; it leads to a drop in academic performance, no time for valuable school activities, and of course even dropping out of school. For the sake of a modest, immediate income, young workers often handicap their entire future.

We often talk about competing with Japan and the academic achievements of Japanese students. I think it's interesting to note that only 2 percent of Japanese students work during the school year, 2 percent, in contrast to about two-thirds of American students, by far the highest proportion of any industrialized nation on the face of this planet.

The subcommittee intends to explore the causes of this growing problem. Is it due primarily to labor shortages in a few areas causing employers to hire younger workers than formerly? Is it due to increased economic pressures on families? Or the inability of an overburdened single mother or overburdened two working parent families to supervise their children adequately? Is it youthful desires for expensive clothes and recreation? How much is due to the huge growth of the fast food industry which is the largest employer of young workers?

One of the witnesses that we will hear testimony from today is Suzanne Boutros, whose 17-year-old son was killed last June while making a delivery for Domino's Pizza. The policy of guaranteeing delivery of a pizza within 30 minutes of the time the order is placed has the effect of encouraging drivers, often teenagers, to speed. Such a practice is insane and senseless. No one has ever died of starvation waiting for a pizza to be delivered. Yet, teenage drivers with pit crews are continually competing in the "Domino's 900" race, where they usually have less than 900 seconds to sometimes make multiple deliveries. I just feel it in my bones that when we invite officials of Domino's to testify, they will tell us that they need more time.

We look forward to hearing first from our two distinguished colleagues who have given outstanding leadership in helping Congress cope with the problem of child labor. Then we will hear some first-hand experiences with illegal child labor, followed by witnesses who will tell us what is being done and what should be done to protect our most valuable "natural resource," our children, from the hazards of excessive and dangerous employment.

I would now like to call on my distinguished colleague and good friend, Congressman Shays of Connecticut.

Mr. **Shays**. Thank you, Chairman Lantos, I want to thank you for calling this hearing and welcome my two colleagues who have been at the forefront of this issue and to say that I, too, look forward to hearing from our five panels. I think it's a very important point that you made, that this committee looks forward to working with the administration, which is concerned about this issue and wants to make a difference, and that's ultimately what we're trying to do.

Thank you, Mr. Chairman.

Mr. **Lantos**. Thank you very much.

We will first hear from Congressman Don Pease of Ohio. Congressman Pease has been a champion in the Congress for the protection of labor of all ages. He has led the way to prevent the importation of products into this country made with slave labor, and he has been a leader in the fight in seeing to it that child labor law provisions are fully complied with. I am delighted to welcome my friend and colleague, Congressman Pease of Ohio.

STATEMENT OF HON. DONALD J. PEASE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

Mr. **Pease**. Thank you very much, Mr. Chairman, and Mr. Shays. It's a pleasure to be here with you this morning and I certainly commend you for holding the hearing. Since this hearing date was announced, the Labor Department has proclaimed a crackdown on child labor violations, it has filed suit against Burger King, and it has shifted half of its available investigators into "child labor sting operations" that we read about in this week's headlines. Given this response, Mr. Chairman, perhaps you should announce a hearing on balancing the Federal budget.

The exploitation of children in the workplace is a global disgrace. At least 200 million children worldwide under the age of 14 are employed. Closer to home, last November I was joined by 47 other

Members of Congress and more than 50 business, labor, human rights, health and education organizations in sponsoring a day-long Capitol Hill Conference on the Exploitation of Children in the Workplace.

During those proceedings a preliminary GAO report documented a 250 percent increase in reported child labor violations since 1983, a disturbing leap, as you have said, from 9,000 to over 22,000 reported violations in just 6 years.

.There were more than 128,000 work-related injuries to children reported in just 2 years, 1987, and 1988. During fiscal years 1987 and 1988 OSHA conducted 59 safety and health inspections of work places where workers under age 19 had died. More than half of these deaths involved 18 year olds, 22 of them were 16 and 17 year olds and 7 were under the age of 16. Only 37 of those 59 employers were cited for serious violations.

In my home State of Ohio the GAO reports a steady increase in reported child labor violations since 1984. Ohio now ranks, I'm sorry to say, third in the Nation among the 34 States that compile such data.

Between 1983 and 1989 GAO identified in Ohio approximately 2,400 violations of the work hour restrictions, over 400 violations of the minimum age restrictions, and at least 1,000 instances where children under the age of 18 worked in a hazardous occupation. As in the Nation generally, most child labor violations occurred in retail trade and in services.

Like you, Mr. Chairman, I welcome Secretary Dole's readiness to get tough with child labor scofflaws. Some of the executive actions she is pursuing should be helpful and I commend her for them, but the problems attending child labor in America require more than just a finger in the dike. A 3 day undercover sting followed by a highly publicized media blitz is no substitute for practical laws and sustained enforcement over time.

There are few than 1,000 Labor Department compliance officers nationwide to enforce existing law. These are the same strapped civil servants who enforce all provisions of the Fair Labor Standards Act, including wage and hour violations for all adult workers. The GAO has told me that typically 4 percent of their enforcement activities—that is, DOL enforcement activities—are devoted to child labor. Now, 4 percent of 1,000 is 40. So, what we are talking about here is the equivalent of 40 full-time persons devoted to child labor violations for the entire Nation for all the tens and hundreds of thousands of workplaces.

Now, Mr. Chairman I was intrigued to read in the Associated Press dispatches yesterday that terminology such as the Labor Department's Wage and Hour Division found 22,500 minors to be illegally employed and since 1985 child labor violations uncovered by the Federal government have more than doubled. I'm not sure that "found" and "uncovered" are really the proper verbs to use. The GAO has told me that standard practice at DOL until very recently has been not to initiate or seek out child labor violations unless they receive multiple complaints from sources outside of the Government. One inspector says that typically only after receiving five extended child labor complaints from outside the Government does a DOL inspector actually visit a suspect job site.

Mr. Chairman, detailed recommendations from a blue ribbon panel, the Child Labor Advisory Committee, have been sitting on the desk of the Secretary of Labor since 1988, and as you know, the child labor provisions of Federal law have not been carefully reviewed and updated since 1938. Against that backdrop, Mr. Schumer and I are working on legislation to update child labor laws.

The landscape of child labor in 1990 has changed significantly, obviously, since what it was in 1938. Stronger enforcement of existing law is a good starting point, but I am glad that Secretary Dole is open to considering new legislation to update and adapt our child labor laws to address the newer and different violations that compound recurring old problems.

Congressman Schumer and I are drafting what we hope will be a comprehensive child labor bill to be introduced in a few weeks. This legislation should be refined based upon the findings of this hearing and those of the sweeping GAO report that I commissioned last summer and which will be completed by the end of April. There is much that can be done, Mr. Chairman, without spending additional money, but if more resources are needed for more inspectors, a good place to start might be to divert some of the hefty increase requested in fiscal year 1991 for the Secretary's personal office and staff.

Mr. Chairman, here are some of the conceptual highlights Mr. Schumer and I are now developing.

First, it seems to us that we need to understand that nobody, including the Department of Labor, has wholly reliable and comprehensive statistics on the scope of child labor in America. The GAO is doing its usual superb job of piecing together available statistics on reported violators. I suspect that this, however, is only the tip of the iceberg. The current data base about children working in America is completely inadequate.

How can monitoring and reporting an employment pattern of minors in the U.S. work force be improved? Well, we might require the U.S. Census Bureau and the DOL to compile annually national data on the types of industry and occupation, including agriculture, in which children are employed, as well as aggregate data on closed cases where it was determined that children are illegally employed.

We might also require States to re-write rules regarding work permits which must be issued before children can work so that a copy of each work permit will go on file with the State's department of health, of education, or of labor. This would facilitate the compilation of statewide tabulations on the numbers of children working and the types of industry and occupation in which they're employed.

We might also require the establishment of a mandatory nationwide reporting system for injuries and illnesses to child workers. Employers should be required under strict penalty of law to complete an injury form similar to the OSHA 200 form on every child who is injured or made ill at work.

Physicians and emergency rooms should be required to report injuries and illnesses in working children just as they now report gunshot wounds. The age of the child, the nature of the job, and the circumstances of the injury must also be indicated.

We might also require that the U.S. Department of Health and Human Services in conjunction with the Department of Labor to issue a joint annual report on the State of child labor in the United States and its attendant health hazards.

Mr. Chairman, the four ideas I've just outlined constitute ways to improve our knowledge base about child labor. What else could we do? Well, a law implementing regulations in enforcement efforts should make clear, as you have said in your opening statement, that the top job for all young Americans is education. Perhaps work permits should be required for anybody under age 18 unless he or she is a high school graduate.

Similarly, consideration should be given to limiting 16- and 17-year-old minors to 20 hour work weeks during the regular school year. Forty hour work weeks are now permissible and not at all uncommon.

Third, work experience under the proper circumstances, as you have also said, can benefit young Americans. Our legislative focus should, therefore, center on prohibiting the exploitation of children in the workplace and not preventing minors from working for pay at all.

A key in this regard is strengthening the work permit system. Principals, teachers, parents, and doctors must take their approach to work permits for minors more seriously than they currently do. They are the first line of defense in protecting children from being exploited in the workplace.

The falsification or bad faith approval of work permits could be made subject to civil and/or criminal penalties. School districts that take this responsibility lightly could see some of their Federal aid called into doubt.

Also, the basic condition under which work permits can be approved should be revised. For example, before a work permit is issued to a minor, there should be a clear determination that the proposed work is safe and that it does not pose any long-term hazards to the youth's health.

Fourth, priority must go to informing young Americans about their rights and how to protect themselves on the job. By extension, parents of children applying for work permits should be included in this educational effort.

Currently, minors, especially those in vocational schools, are routinely instructed on what is expected of responsible employees in the work world. At the time when minors apply for work permits, why not require that they be informed and instructed in straightforward terms about their basic rights on the job? Too often neither working minors nor their parents know their rights and routinely providing that information would go a long way toward empowering working children to protect themselves.

Similarly, employers of minors should be required to post prominently on their job sites notices informing their young employees of their basic rights and the protections under the law.

Fifth, and I think this is important, the penalties for child labor scofflaws should be much tougher than they currently are. For example, I see no reason why multiple offenders of our Nation's child labor laws should not be banned from bidding on any Federal contracts when applicable, but I will leave it to Congressman Schumer to discuss penalties and other aspects of our developing bill.

To sum up, child labor and sweatshops are two insidious social problems that, until very recently, many Americans thought no longer existed. Nothing could be further from the truth if DOL inspectors found 7,000 violations in just 3 days earlier this week.

In reality, tens of thousands of Americans are working illegally at young ages in hazardous jobs for too long hours. They are slicing meat in fast food restaurants, operating paper-baling machines and trash compactors, driving forklift trucks, racing as you have said through traffic to deliver pizzas, and toiling away in garment industry sweatshops.

Now that the cop is out of the precinct station and on the beat at Department of Labor, we must do our part as legislators to make certain that the law addresses more effectively the unique vulnerabilities of young Americans on the job while safeguarding and nurturing their promise.

By this hearing this morning you are certainly indicating your commitment to doing just that and I again commend you, Mr. Shays, and the entire subcommittee for your interest and for your diligence.

Thank you.

Mr. Lantos. Thank you very much, Congressman Pease, for what was a remarkably informative and analytical and comprehensive testimony, and I again want to salute you for your leadership in this field.

[The prepared statement of Mr. Pease follows:]

Testimony of Congressman Don J. Pease before the Employment and Housing Subcommittee of the House Government Operations Committee on Children at Risk in the Workplace

March 16, 1990

Mr. Chairman, I commend you and the other members of your subcommittee for holding this hearing. Since this hearing date was announced, the Labor Department has proclaimed a crackdown on child labor, filed suit against Burger King, and shifted half of its available investigators into "child labor sting operations" that we read about in this week's headlines. Given this response, maybe you should announce a hearing on balancing the federal budget.

The Challenge

Seriously, though, the exploitation of children in the workplace is a global disgrace. At least 200 million children worldwide under age 14 are employed.

Closer to home, last November I was joined by 47 other members of Congress and more than 50 business, labor, human rights, health, and education organizations in sponsoring a day-long Capitol Hill conference on the Exploitation of Children in the Workplace. (Copy of the program is attached). During those proceedings, a preliminary GAO report documented a 250 percent increase in reported child labor violations since 1983--a disturbing leap from 10,000 to over 25,500 reported violations in 1989. There were more than 128,000 work-related injuries to children reported just in 1987 and 1988.

During fiscal years 1987-1988, OSHA conducted 59 safety and health inspections of workplaces where workers under age 19 had died. More than half (30) of these deaths involved 18 year olds, 22 were 16 and 17 year olds, and 7 were under age 16. Only 37 of those 59 employers were cited for serious violations. The total amount of fines assessed was $27,364. I was astonished to learn that, on average, the penalty assessed in the wake of a workplace fatality was $740.

In my home state of Ohio, the GAO reports a steady increase in reported child labor violations since 1984. Ohio now ranks third in the nation among the 34 states that compile such data. (California ranks first). Between 1983 and 1989, GAO identified in Ohio approximately 2,400 violations of the work hour restrictions, over 400 violations of the minimum age restrictions, and at least 1,000 instances where children under 18 worked in a hazardous occupation. As in the nation generally, most child labor violations occurred in retail trade and services.

The Bush-Dole Response

I welcome Secretary Dole's readiness to get tough with child labor scofflaws. Some of the executive actions she is pursuing should be helpful and I commend her. But the problems attending child labor in America require more than a finger in the dike. A three-day undercover sting followed by a highly-publicized media blitz is no substitute for practical laws and sustained enforcement over time.

There are fewer than 1,000 Labor Department compliance officers nationwide to enforce existing law. These are the same strapped civil servants who enforce all provisions of the Fair Labor Standards Act, including wage and hour violations for all adult workers. The GAO has told me that typically 4 percent of their enforcement activities are devoted to child labor. The GAO has told me that standard practice at DOL, until very recently, has been not to initiate or seek out child labor violations unless they receive multiple complaints from sources outside of the government. One inspector says that typically only after receiving five extended child labor complaints does a DOL inspector actually visit a suspect job site.

Detailed recommendations from a blue ribbon panel, the Child Labor Advisory Committee, have been sitting on the desk of the Secretary of Labor since 1988.

The child labor provisions of federal law have not been carefully reviewed and updated since 1938.

The Pease-Schumer Bill

The landscape of child labor in 1990 has changed significantly from what it was in 1938. Stronger enforcement of existing law is a good starting point, but I am glad that Secretary Dole is open to considering new legislation to update and adapt our child labor laws to address the newer and different violations that compound recurring old problems.

Congressman Schumer and I are currently drafting a comprehensive child labor bill to be introduced in a couple of weeks. This legislation should be refined based upon the findings of this hearing and those of the sweeping GAO report that I commissioned last summer and which will be completed by the end of April. There is much that can be done without spending an additional dime. But if more resources are needed for more inspectors, a good place to start might be to divert some of the hefty increase requested in FY91 for the Secretary's personal office and staff.

Here are some of the conceptual highlights we are now developing:

First, we need to understand that nobody, including the Labor Department, has wholly reliable and comprehensive statistics on the scope of child labor in America. The GAO is doing a superb job of piecing together available statistics on reported violators. I suspect that this is the tip of the iceberg. The current data base about children working in America is completely inadequate.

How can monitoring and reporting on employment patterns of minors in the U.S. workforce be improved?

* Require the U.S. Census Bureau and the U.S. Labor department to compile annually national data on the types of industry and occupation, including agriculture, in which children are employed as well as aggregate data on closed cases where it was determined that children were illegally employed;

* Currently in all states across the country, school districts are required to issue work permits before children can go to work. Generally, such permits require signatures both from a school official and a physician certifying that the child is fit for work and that the proposed work will not interfere unduly with the child's school work. When certificates of work were first introduced 40 years ago, they were seen as a great step toward reform. In reality, however, the completion of the work permit has become largely a pro forma exercise, and the sign-offs have become largely automatic. Moreover, the information collected on work permits is not centralized in any way. Instead, in most states each school district simply collects information and files it locally. Therefore, in all but a few states, the information value of the work permits is completely lost.

  Require states to re-write rules regarding work permits so that a copy of each work permit will go on file with the state's Department of Health, of Education, or of Labor. This would facilitate the compilation of statewide tabulations on the numbers of children working and of the types of industry and occupation in which they are employed.

* Require the establishment of a mandatory nationwide reporting system for injuries and illnesses to child workers. Employers should be required under strict penalty of law to complete an injury form similar to the OSHA 200 Form on every child who is injured or made ill at work. Physicians and emergency rooms should be required to report injuries and illnesses in working children just as they now report gunshot wounds. The age of the child, the nature of the job, and the circumstances of the injury must also be indicated. This information should be filed in a timely fashion with a central agency, so that information can be compiled annually.

* Require the U.S. Department of Health and Human Services in conjunction with the U.S. Department of Labor to issue a joint annual report on the state of child labor in the United States and its attendant health hazards.

Second, the law, implementing regulations, and enforcement efforts should make clear that getting a good education is the top job for all young Americans. Perhaps work permits should be required for anybody under age 18 unless he/she is a high school graduate. Similarly, consideration should be given to limiting 16 and 17 year old minors to 20-hour work weeks during the regular school year. Forty-hour work weeks are now permissible and not uncommon.

Third, work experience, under the proper circumstances, can benefit young Americans. Our legislative focus should center on prohibiting the exploitation of children in the workplace and not preventing minors from working for pay at all.

A key in this regard is strengthening the work permit system. Teachers and doctors must take the approach of work permits for minors more seriously. They are the first line of defense in protecting children from being exploited in the workplace.

Weighing this responsibility, the falsification or bad faith approval of work permits could be made subject to civil and/or criminal penalties. School districts that take this responsibility lightly could see some of their federal aid called into doubt.

Also, the basic conditions under which work permits can be approved should be revised. For example, before a work permit is issued to a minor, there should be clear determinations that the proposed work is safe and that it does not pose any long-term hazards to the youth's health.

Fourth, priority must go to informing young Americans about their rights and how to protect themselves on the job. By extension, parents of children applying for work permits should be included in this educational effort.

Currently, minors are routinely instructed in schools on what is expected of responsible employees in the work world. At the time when minors apply for work permits, why not require that they be informed and instructed in straightforward terms about their basic rights on the job. Too often neither working minors nor their parents know their rights, and routinely providing that information would go a long way toward empowering working children to protect themselves.

Similarly, employers of minors should be required to post prominently on their job sites notices informing their young employees of their basic rights and protections under the law.

Fifth, the penalties for child labor scofflaws should be much tougher. For example, I see no reason why multiple offenders of our nation's child labor laws should not be banned from bidding on any federal contracts, when applicable. But I'll leave it to Congressman Schumer to discuss penalties and other aspects of our developing bill.

To sum up, child labor and sweatshops are two insidious social problems that, until very recently, many Americans thought no longer existed. Nothing could be further from the truth if DOL inspectors found 7,000 violations in just three days earlier this week.

In reality, tens of thousands of Americans are working illegally at young ages in hazardous jobs for too long hours. They are slicing meat in fast food restaurants, operating paper-baling machines and trash compactors, driving forklifts, racing through traffic to deliver pizzas, and toiling away in garment industry sweatshops.

Now that the cop is out of the precinct station and on the beat at DOL, we must do our part as legislators to make certain the law addresses more effectively the unique vulnerabilities of young Americans on the job, while safeguarding and nurturing their promise.

Capitol Hill Forum on the Exploitation of Children in the Workplace

November 21, 1989

Cannon Caucus Room
Cannon House Office Building
Capitol Hill
Washington, D.C.

STATEMENT OF PURPOSE FOR CAPITOL HILL FORUM ON THE EXPLOITATION OF CHILDREN IN THE WORKPLACE

According to the International Labor Organization (ILO), at least 200 million children worldwide under age fourteen are employed. In some Third World countries, children constitute anywhere from 15% to as high as 26% of the work force.

Millions of children, some as young as eight years old, especially in developing and newly-industrialized countries, can be found working in such dangerous industries as mining, metal works, glass, fireworks, and apparel and textile manufacturing, commonly without any protection or awareness of the health risks. Often these children are victims of cuts and burns; many are maimed and left miserably handicapped; and many more contract diseases that lead to incapacitation for life or even death.

Within the United States, child labor problems are getting markedly worse. In a General Accounting Office (GAO) report issued in June, 1989, the Apparel Industry Task Force of the New York State Labor Department estimated that of the 7,000 apparel firms operating in New York City, 4,500 firms—64% of the total—are sweatshops employing more than 50,000 workers. (Sweatshops are defined to be a "business that regularly violates both wage or child labor and safety or health laws.") The GAO found that during a five-year period from fiscal year 1984 to fiscal year 1988, only one apparel shop in the New York metropolitan area was inspected by the U.S. Labor Department. To make matters worse, violations are reportedly widespread in the fast-food industry in which many young Americans are employed in their first paying jobs.

There is no escaping the fact that the prevalence of child labor in many developing as well as industrialized countries is rooted in widespread, abject poverty that is perpetuated by unemployment among adult workers, precarious family incomes, low living standards, often non-existent education and training opportunities, and non-enforcement of existing laws and regulations. But we ought not be immobilized by the enormity of the challenge. Many countries are already legally obligated under international law to prohibit the employment in industry of children under age fourteen. Many more countries have adopted national laws to proscribe the exploitation of children in the workplace. In large part, what is lacking is political will.

In recognition that children hold the promise of every civil society, we need to make a start toward more effectively discouraging the most brutal forms of exploitation of children in the workplace. Toward this end, we are united in our beliefs that children under fourteen ought not be employed in factories or mines anywhere and that, within the U.S., adherence to laws and regulations pertaining to children in the workplace should be improved.

Forum Organizing Committee

Bill Goold, Office of U.S. Representative Don J. Pease
Pharis Harvey, International Labor Rights Education and Research Fund
Linda Golodner, Judith Neiman, National Consumers League
Elizabeth Smith, Amalgamated Clothing and Textile Workers Union
Evelyn Dubrow, International Ladies Garment Workers Union
Holly Burkhalter, Human Rights Watch
Mike Jupp, Defense of Children International/U.S.A.
Tony Gambino, House Select Committee on Hunger
Jeremy Barber, Office of U.S. Representative Charles Schumer
Bill Treanor, Michelle Reynolds, American Youth Work Center
Jane Harvey, United Methodist Church
Ed Gresser, Office of U.S. Representative Silvio O. Conte
Fay Lyle, Consultant to U.S. Department of Labor
Stephen Schlossberg, International Labor Organization/Washington Office
Patricia Shea, Graham Newson, American Academy of Pediatrics
George Bashian Jr., Oriental Rug Importers Association, Inc.
Cheryl Graeve, Ted Goodwin, Frontlash/AFL-CIO
Linda Greenan, Child Welfare League of America
Alex Palacios, U.S. Committee for UNICEF
Cliff Johnson, Children's Defense Fund
John Zalusky, Research Department/AFL-CIO

Forum Program

9:00 - 9:15 Welcome and Introductions by U.S. Representatives Pease, Hall, Schumer, and Conte and by U.S. Senator Howard Metzenbaum

9:10 - 9:25 Opening Plenary Remarks: The Exploitation of Children in the Workplace and International Law—Legal Obligations Awaiting Practical Enforcement

Stephen Schlossberg, Washington Office/International Labor Organization

9:25 - 10:00 Viewing of videotape documentary

10:00 - 10:40 The Scope of Exploitation on Children in the Workplace—International and Domestic Dimensions

Presentation by Joseph Albright, Marcia Kunstel, and Rick McKay, senior investigative reporters and photographer with Cox Newspapers

Presentation by William Gainer, U.S. General Accounting Office on child labor trends and problems in America

10:40 - 11:00 Presentation by Hugh McDaid, Apparel Industry Task Force, New York State Labor Department

11:00 - 12:30 Roundtable Discussion of Different Perspectives on Meeting the Challenge of Deterring Exploitation of Children in the Workplace

Facilitator: Steve Hellinger, Development Group for Alternative Policies

Participants
Pharis Harvey, International Labor Rights Education and Research Fund
George Ogle, United Methodist Church
Elizabeth Smith, Amalgamated Clothing and Textile Workers Union
Sally Potter, National Education Association
Dr. Susan Pollack, Mount Sinai Medical Center
Cheryl Graeve, Frontlash/AFL-CIO
Joseph Albright or Marcial Kunstel, Cox Newspapers
Panudda Boonpala, Child Workers In Asia Support Group
Rudy Oswald, AFL-CIO
Carlotta Young, General Accounting Office
George Bashian, Jr., Oriental Rug Importers Association, Inc.
Peter Lunnie, National Association of Manufacturers
Atherton Martin, Former Agriculture Minister, Dominica
Stephen Schlossberg, Washington Office/ILO

12:30 - 1:30 Lunch Break

1:30 - 2:15 Keynote Speech: Exploitation of Children in the Workplace—A Third World Vantage Point

Panudda Boonpala, Child Workers in Asia Support Group, Bangkok, Thailand

2:15 - 2:30 The Health Hazards of Child Labor

Presentation by Dr. Philip Landigran, Director of Division of Environmental and Occupational Medicine, Mount Sinai Medical Center

2:30 - 3:45 Concurrent Workshops: Call to Action and Strategies for Organizing

Each workshop will open with brief presentations by the workshop leaders and commentators who will encourage group discussion with a view toward reporting back and highlighting for the plenary points of consensus and plans for follow-up.

Workshop A—Proposed Legislation: Discussion of various provisions of bills introduced by Representatives Pease, Hall, and Schumer, among others, with pros and cons of respective bills.

Workshop leaders: Bill Goold, Office of Representative Don J. Pease
Jeremy Barber, Office of Representative Charles Schumer

Commentator: Tony Gambino, House Select Committee on Hunger

Workshop B—Options for Building Support Inside the Beltway: Disscussion of recently enacted worker rights laws as they pertain to child labor and how to bring formal petitions before the U.S. Trade Representative, Overseas Private Investment Corporation, and the appropriate policy-making agencies; planning for congressional hearings; developing working coalitions of diverse interest groups to maximize utilization of existing channels through which to pressure U.S. policy makers to use their authority to discourage exploitation of children in the workplace.

Workshop Leader: Lance Compa, United Electrical Workers Union

Commentators: William Meagher, U.S. Department of State
John Melle, Office of U.S. Trade Representative
Jack Buchanek, Formerly with U.S. Department of Labor

Workshop C—Options for Building Grassroots Support Outside the Beltway: Discussion of broad array of initiatives; approaches for raising awareness of exploitation of children in the workplace ranging from debates within multilateral institutions (GATT, ILO, UN Declaration on Rights of the Child, MIGA, etc.), selected boycotts of companies trafficking in goods produced by children exploited in the workplace, letter writing campaigns to policy-maker, stockholder resolution, resolutions from church congregations, selective picketing, working the media, and coordinating focused research on a country, industry, or company basis, and linking up with Washington-based activist coalitions of diverse interest groups and related work.

Workshop Leader: Steve Coats, International labor consultant, writer, and Formerly with Bread for the World

Commentators: Mike Jupp, Defense of Children International
Linda Golodner, National Consumers League
Evelyn Dubrow, International Ladies Garment Workers Union

3:45 - 4:00 Reports from Workshop Leaders: Each workshop leader will summarize what took place with special attention given to what follow-up activities are planned for continuing work to combat the exploitation of children in the workplace.

4:00 - 4:45 Closing Remarks

Charles Gray, Asian-American Free Labor Institute

Linda Golodner, Chairperson, Child Labor Advisory Committee to U.S. Department of Labor

Bill Treanor, American Youth Work Center

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Youth Service Project/Chicago, Illinois
Alternative Family Services/San Francisco, California
The Villages, Inc./Topeka, Kansas
Work, Inc., Quincy, Massachusetts
American Association of School Administrators
The National Council on the Aging, Inc.
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Council of Jewish Federations
Family Resource Coalition/Chicago, Illinois
Food and Agriculture Organization of the United Nations/North American Office
Children's Defense Fund
American Academy of Pediatrics
Amalgamated Clothing and Textile Workers Union
International Ladies Garment Workers Union
Nine to Five: National Association of Working Women
AFL-CIO
American Youth Work Center
B'nai B'rith Women
Church of the Brethern
NETWORK—A National Catholic Social Justice Lobby
Union of American Hebrew Congregations
National Education Association
American Association of Counseling and Development
Women USA Fund
National Urban League
Jewish Labor Committee
League for Industrial Democracy
Food and Allied Services Trade/AFL-CIO
Women's Research and Education Institute
Americans for Democratic Action
Consumer Assembly of New York
Specialized Alternatives for Youth/of America/Delphos, Ohio
Youth Communications/Washington, D.C.
Wilson Senior High School/Washington, D.C.
VisonQuest/Tucson, Arizona
General Federation of Women's Clubs/Washington, D.C.
St. Ann's Home/Methuen, Massachusetts
Private Industry Council/New York, New York
Charles Rive Association for Retarded Citizens/Needham, Massachusetts
The Bridge/Northboro, Massachusetts
Christian Children's Fund
Alternative Schools Network
Children's Express
Key Program
Ohio Youth Services Network
United Way International
Family Resource Coalition
National Association of Homes for Children
Northeast Family Institute
National Youth Employment Coalition
Child Care Action Campaign
Church Women United
National Women's Law Center
Mexican-American Women National Association
National Council of Jewish Women
Women's Legal Defense Fund

Mr. **Lantos**. My understanding is you have a plane to catch in a few minutes. I wonder if Congressman Schumer would allow us to ask whatever questions we may have, and I hope after that you'll join us here on the panel.

Although you have referred to this, Congressman Pease, let me be sure I get your views on this clearly because your testimony raised a lot of questions in my mind. Are you convinced that the Labor Department does need more money to do a more effective job of enforcing our Nation's child labor laws?

You're indicating there are about 40 inspectors on the job on a regular routine basis. Well, that's less than one inspector per State. When you have States such as California, with 28 to 29 million people, tens of thousands of work places—even if California has 10 percent of the inspectors, which would be four—that's sort of a joke in pretending that we are enforcing child labor laws.

What kinds of additional funding do you think would be required in addition to your reference to shifting some funds to deal with this problem adequately?

Mr. **Pease**. Mr. Chairman, I don't have specific dollar figures to recommend, but I do want to underscore that I think the present compliance activities of DOL are not adequate to the job. I mentioned earlier that the GAO estimates that of the 1,000 inspectors they spend only about 4 percent of their time in child labor matters and that would be the functional equivalent of 40 for the whole country, clearly inadequate, but as I also testified it's pretty clear that those, even that 4 percent of the time of the current compliance people is not spent out in the field inspecting sites unless there is significant outside complaint about them, and it seems to me that we simply invite violations of the law when we tell employers that their chances of being inspected are practically nil.

So, I appreciate the Secretary's statement this week that she wants to make sure that she gets maximum effectiveness out of her current work force, but I see no reason why that could not go on simultaneously while we are adding new resources to the Department for additional compliance officers.

Almost on the face of it, when you think the Department being able to come up in 3 days with 7,000 violations, a third as many as were unearthed in all of 1989, it is perfectly clear that many more violations actually occur every day and that increased compliance personnel could root out and find and punish those transgressions.

Mr. **Lantos**. Congressman Pease, you and I have served for almost a decade on the permanent U.S. congressional delegation that deals with the European Economic Community. You also serve on the Trade Subcommittee of Ways and Means. I mentioned in my opening remarks that in Japan about 2 percent of this age group works and two-thirds in the United States, which are working part-time or fulltime. As one of the people in the Congress who specializes in the problems of competitiveness, what kind of future does this project for our future competitiveness vis-a-vis Japan or the European Community when their 14, 15, 16, 17 year olds are learning useful skills and are preparing themselves for the high-tech world we'll be living in, or they will be living in the 21st century, while such an enormously large number of our young people are dealing with fast food operations?

Mr. PEASE. Mr. Chairman, I think your question raises a very important point. You and I have both been interested for many years in human rights, and I think you and I would believe that child labor violations ought to be stopped purely on human rights grounds. Children should not be exploited.

But we are, as you suggest, locked in a competition in the global marketplace and we compete with Germany, France, and Japan every day in the global marketplace. I have talked with school teachers in my own congressional district who tell me that children come to school, high school, totally unprepared to learn during the day because they are simply tired out from having worked long hours the night before, and that they really have no interest in learning what the teachers have to tell them because they don't have the mental energy to do that, the physical energy, and because they are extremely eager to get through the day, get back to work, and earn money to buy that car or the clothes or whatever it might be.

So, I believe it is critically important in terms of our competitiveness worldwide for us to enforce the existing laws and, as Mr. Schumer and I will suggest, to tighten up the laws that are already on the books further to make sure that when students come into the school room at the beginning of the day, they come in there able to learn and ready to learn, not exhausted from an evening of work the night before. It seems to me that's an absolutely critical element of this whole area of child labor exploitation.

Mr. LANTOS. Thank you very much.

I now turn to Congressman Shays.

Mr. SHAYS. Thank you.

Mr. Pease, I want you to make your airplane. You've given us a very comprehensive statement and I know you have worked long and hard on this issue for a number of years.

I'm struck by the fact that obviously the Labor Department is going to need more people to enforce our laws, but it seems to me if we don't increase the penalties, we're not going to see much impact because even if they go out and find violators, so what?

The only other question I guess I'm going to be wrestling with today is how children learn a work ethic. My parents wanted me to start to work at age 14 to complement my school work and they were determined that I would have that work experience and know that life wasn't just fun and games. So, it'll be interesting to see how we wrestle with that issue. I'm left with a little concern that we would start to have a young person at 17 years old have to get a work permit in every instance. So, that's the one area where I'm going to sort out, but in most every other instance I'm in full agreement.

Mr. PEASE. Well, thank you, Mr. Shays, and I certainly agree with you on the matter of penalties. If an employer can look upon the remote possibility of being picked up for child labor law violation, as a cost of doing business, the chances are one in a thousand I'll get caught, and if I do get caught, I may pay a $500 fine, that is certainly an acceptable cost of doing business for most businessmen and would not deter them in the least from hiring child labor. So, Mr. Schumer and I will certainly be emphasizing increased penalties as one aspect of our legislation.

As I mentioned in my testimony, I think that work experience for teenagers is a good experience, one we ought to encourage. We need to strike a balance as you, I think, are suggesting between work experience and exploitation of children so that their work does not interfere with their ability to learn in school.

Mr. SHAYS. Thank you, Mr. Pease.

Thank you, Mr. Chairman.

Mr. LANTOS. Thank you very much, Congressman Pease, we appreciate your testimony.

Mr. PEASE. Thank you, Mr. Chairman, for allowing me to testify and try to catch that plane.

Mr. LANTOS. Let me also say that I know I and I am sure Congressman Shays and probably all members of this subcommittee will be looking forward to working with you and Congressman Schumer in developing your legislation and in cosponsoring that legislation because I think it's long overdue.

Mr. PEASE. Thank you.

Mr. LANTOS. Congressman Schumer of New York has been one of the leaders in this Congress on a number of our most important issues, played a key role in the savings and loan resolution, the resolution of that gigantic crisis, he was an invaluable regular member of this panel in terms of our HUD investigations and made many critical contributions to the work of this subcommittee and he, of course, is one of the leaders in the country in trying to see to it that children are not exploited and is the author of the legislation that we all hope will come before us and pass.

I'm very pleased to welcome my friend and colleague from New York, Congressman Schumer.

STATEMENT OF HON. CHARLES SCHUMER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. SCHUMER. Thank you, Mr. Chairman, and first let me salute this committee once again. Speaking of leadership, this committee has been not only in, of course, the great work that you have done on HUD but on so many other issues. This hearing, as my colleague, Mr. Pease mentioned, has already brought some action. Several thousand children will be living a little better simply because you decided to hold a hearing in my judgement and I'd like to thank you and Mr. Shays and all the members of the subcommittee and staff for all of their help and courtesy on this and other issues.

Mr. Chairman, most Americans believe that every child should have a job, they should work Monday to Friday, from 9 to 4, with no pay. Most people in this country believe that every young person must work in the most difficult job of all, school. Yet, many children are not in school. Instead, they're slaving away, sewing pleats in cheap skirts in dark freezing rooms. They are in the fields before sunrise spraying pesticides on crops. They are slicing fingers with meat slicers as they face the lunch hour crunch.

Mr. Chairman, the grim picture of children laboring away in horrible conditions is one we associate with America in the 1890's, but it sadly has become America in the 1990's.

The Department of Labor's work this past week is commendable. Its efforts to uncover violators of child labor laws and bring them to justice is a step in the right direction, but it is only a step. In 3 days 500 of the Department's 1,000 inspectors discovered 7,000 minors working illegally. Imagine, imagine what we would find and ultimately prevent if this were done every week. We simply are scratching the surface with a motherload of undetected abuse below.

Secretary Dole has commendably outlined a five point plan to fight child labor abuse. This packages moves in the right direction, but unfortunately we need much more action. Most importantly, Mr. Chairman, we need tougher penalties, penalties to deter employers from abusing their child employees. A slap on the wrist will no longer suffice. Yes, we need more inspectors, you are certainly right about that, the number is all too few, but as Mr. Shays mentioned in addition, and I think this is very important, if we're not going to have all the inspectors we need to do the job, then it's ridiculous to wage a war where if the employer is caught he or she only gets a slap on the wrist. A thousand inspectors and a maximum civil penalty of only a $1,000 a violation will not do. If we are not going to inspect every potential violator as we should in the ideal world, then at the very least an employer should know when he or she gets caught they're going to pay a very stiff price.

In short, Mr. Chairman, child labor is a stain on the national conscience. When I asked the GAO to study sweatshops in New York 2 years ago I never expected the picture that they would paint. Yes, I thought there might be an abuse here or there, but what the GAO found was utterly amazing in terms of child labor in sweatshops proliferating in industries in every corner of America.

In my State of New York, for instance, over 50,000 people were employed in 4,500 sweatshops in the apparel industry alone. A full 64 percent of the 7,000 apparel firms in New York were sweatshops, and many of the laborers were children.

GAO records showed a 250 percent increase in child labor violations over the last 5 years, from 9,000 to 22,500. Between 1987 and 1989 the retail trade industry was cited for illegally employing 63,000 minors.

Mr. Chairman, it was not just a few grimy little sweatshops buried away in some corner of America that were the abusers. Well known national companies, like Burger King, still think in 1990 that having it your way means abusing children.

As the demographics of the America work force continue to shift, by the year 2000 there will be 2 million fewer 16- to 24-year-old workers than there are today, and that means unfortunately that unless we do something the plague of child labor upon the American work force will continue to grow.

Between 1987 and 1989 a 128,000 minors were injured; 59 were killed in the workplace. The 37 employers who were cited for violations relating to these cases were fined a total of $27,000. The average penalty for a violation that related to death was a paltry $740.

$740 for a life in the United States. That should not only make us sad but should make us very, very angry.

Congressman Pease and I, and I want to salute him in absentia for his leadership on this issue, he's been a lonely voice out there for a very long time, we've joined to tackle this issue head on. We're drafting sweeping child labor legislation that will eradicate the exploitation of children in the workplace.

Congressman Pease mentioned most and I'm going to focus on the penalties because I believe, as you have stated and as Mr. Shays has stated, that the penalties just will not do, these slaps on the wrist must end.

What our legislation will call for is, first, criminal penalties for willful multiple violators of existing child labor laws. A fine of up to a $100,000 and imprisonment for not less than 6 months. If an employer repeatedly, repeatedly violates these laws and harms children, then jail is only appropriate.

We also call for the institution of civil penalties of up to $10,000 for child labor violations.

We will institute civil fines of up to a $1,000 for recordkeeping violations. Mr. Chairman, another problem is that when the Labor Department inspectors go to inspect they find the records totally inadequate.

In addition, we establish a system of ongoing coordination and cross referencing between WHD, OSHA, and INS. In the past, amazingly enough, you would have an INS or an OSHA inspector go to a factory, take away the people they were in charge of, and let the children continue to work there under these terrible conditions. A child, if he wasn't, or she wasn't an illegal immigrant, would simply be allowed to continue to work. We need that kind of coordination.

We would debar multiple and willful violators of child labor laws from competing for Federal contracts and Federal dollars.

We would expand and amend the 17 "hazardous occupation orders" to include things that are now not regarded as hazardous, I can't understand why, such as poultry processing, paper balers, meat slicers, and pesticides and other toxins.

We would also expand current law to cover door-to-door sales and increase Federal funding for inspectors.

We must act now if we're to guarantee that the American dream remains an equal opportunity employer and not just the right of the privileged few.

Mr. Chairman, as the 20th century draws to a close, we must ensure that the legacy of child labor once again becomes a distant memory in America.

Thank you.

Mr. Lantos. Thank you very for outstanding testimony.

[The prepared statement of Mr. Schumer follows:]

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WHIP-AT-LARGE

STATEMENT OF CONGRESSMAN CHARLES E. SCHUMER

Before the
U.S. House of Representatives
Committee on Government Operations
Subcommittee on Employment and Housing

March 16, 1990

MOST AMERICANS BELIEVE THAT EVERY CHILD SHOULD HAVE A JOB, FROM MONDAY TO FRIDAY, FROM 9:00 A.M. TO 4:00 P.M., A JOB THAT THEY GET NOTHING FOR. EVERY YOUNG PERSON IN THIS COUNTRY MUST WORK IN THE MOST DIFFICULT JOB OF ALL -- SCHOOL.

YET MANY CHILDREN ARE NOT IN SCHOOL. INSTEAD, THEY ARE SLAVING AWAY, SEWING PLEATS IN CHEAP SKIRTS IN DARK FREEZING ROOMS. THEY ARE IN THE FIELDS BEFORE SUNRISE SPRAYING PESTICIDES ON CROPS. THEY ARE SLICING FINGERS WITH MEAT SLICERS AS THEY FACE THE LUNCH HOUR CRUNCH.

THE GRIM PICTURE OF CHILDREN LABORING AWAY IN HORRIBLE CONDITIONS, ONE WE ASSOCIATE WITH AMERICA IN THE 1890'S, SADLY HAS BECOME AMERICA AGAIN IN THE 1990'S.

THE DEPARTMENT OF LABOR'S WORK THIS PAST WEEK IS COMMENDABLE. ITS EFFORTS TO UNCOVER CHILD LABOR LAW VIOLATORS AND BRING THEM TO JUSTICE IS A STEP IN THE RIGHT DIRECTION. YET IT IS ONLY A STEP.

IN THREE DAYS, 500 OF THE DEPARTMENT'S 1,000 INSPECTORS DISCOVERED 7,000 MINORS WORKING ILLEGALLY. IMAGINE WHAT WE WOULD FIND -- AND ULTIMATELY PREVENT -- IF THIS WERE DONE EVERY WEEK. WE ARE SCRATCHING THE TIP OF AN ICEBERG OF ABUSE.

SECRETARY DOLE HAS OUTLINED A FIVE POINT PLAN TO FIGHT CHILD LABOR ABUSE. THIS PACKAGE MOVES IN THE RIGHT DIRECTION, BUT UNFORTUNATELY, WE NEED MUCH MORE ACTION.

WE SIMPLY NEED TOUGHER PENALTIES TO DETER EMPLOYERS FROM ABUSING THEIR CHILD EMPLOYEES. A SLAP ON THE WRIST WILL NO LONGER SUFFICE.

IDEALLY, WE NEED BOTH TOUGHER PENALTIES TO DETER VIOLATIONS AND MORE INSPECTORS TO ENFORCE CURRENT LAW. IF WE CANNOT HAVE BOTH, THEN WE MUST HAVE AT LEAST ONE OR THE OTHER. IT IS RIDICULOUS TO WAGE A WAR ON CHILD LABOR ABUSE WITH ONLY 1,000 INSPECTORS ACROSS THE COUNTRY AND A MAXIMUM CIVIL PENALTY OF $1,000 PER VIOLATION. IF WE ARE NOT GOING TO INSPECT EVERY POTENTIAL VIOLATOR, THEN WE MUST LET THE VIOLATORS KNOW THAT WHEN THEY GET CAUGHT THEY WILL PAY A STIFF PRICE.

IN SHORT, CHILD LABOR IS A STAIN ON THE NATIONAL CONSCIENCE.

WHEN I ASKED THE GAO TO STUDY SWEATSHOPS IN NEW YORK, I NEVER EXPECTED THE PICTURE THAT THEY PAINTED. OVER 50,000 PEOPLE WERE EMPLOYED IN 4,500 SWEATSHOPS IN THE APPAREL INDUSTRY ALONE. A FULL 64% OF THE 7,000 APPAREL FIRMS IN NEW YORK WERE SWEATSHOPS.

GAO RECORDS SHOWED A 250% INCREASE IN CHILD LABOR VIOLATION OVER THE LAST FIVE YEARS -- AN INCREASE FROM 9,000 TO OVER 22,500. BETWEEN 1987-1989 THE RETAIL TRADE INDUSTRY WAS CITED FOR ILLEGALLY EMPLOYING 63,000 MINORS.

AS THE DEMOGRAPHICS OF THE AMERICAN WORK FORCE CONTINUES TO SHIFT-- BY THE YEAR 2000 THERE WILL BE TWO MILLION FEWER 16-24 YEAR OLD WORKERS THAN THERE ARE TODAY-- THE PLAGUE OF CHILD LABOR UPON THE AMERICAN WORK PLACE WILL CONTINUE TO GROW.

BETWEEN 1987 AND 1989, 128,000 MINORS WERE INJURED AND AN ESTIMATED 59 WERE KILLED IN THE WORKPLACE. THE 37 EMPLOYERS WHO WERE CITED FOR VIOLATIONS RELATING TO THESE CASES WERE FINED A TOTAL OF $27,000. THE AVERAGE PENALTY WAS A PALTRY $740 -- $740 FOR A CHILD'S LIFE IN THE UNITED STATES -- THAT SHOULD NOT ONLY MAKE US SAD, IT SHOULD MAKE US ALL VERY ANGRY.

CONGRESSMAN PEASE AND I HAVE JOINED TO TACKLE THIS ISSUE HEAD ON. WE ARE DRAFTING SWEEPING CHILD LABOR LEGISLATION THAT WILL ERADICATE THE EXPLOITATION OF CHILDREN IN THE WORKPLACE.

OUR LEGISLATION WILL:

* CALL FOR CRIMINAL PENALTIES FOR WILFUL MULTIPLE VIOLATORS OF EXISTING CHILD LABOR LAWS: A FINE UP TO $100,000 AND IMPRISONMENT FOR NOT LESS THAN 6 MONTHS

* INSTITUTE CIVIL PENALTY OF UP TO $10,000 FOR CHILD LABOR VIOLATIONS

* ESTABLISH A SYSTEM OF ONGOING COORDINATION AND CROSS REFERENCING BETWEEN WHD, OSHA, AND INS

* CREATE A NATIONWIDE SYSTEM OF WORK PERMITS IN ORDER TO BETTER PROTECT CHILDREN FROM EXPLOITATION IN THE WORK PLACE

- INSTITUTE CIVIL FINES OF UP TO $1,000 FOR RECORD KEEPING VIOLATIONS
- DEBAR MULTIPLE/WILFUL VIOLATORS OF CHILD LABOR LAWS FROM COMPETING FOR FEDERAL CONTRACTS AND FEDERAL DOLLARS
- EXPAND AND AMEND THE 17 "HAZARDOUS OCCUPATION ORDERS" TO INCLUDE POULTRY PROCESSING, PAPER BALERS, MEAT SLICERS, AND PESTICIDES AND OTHER TOXINS
- EXPAND CURRENT LAW TO COVER DOOR-TO-DOOR SALES
- INCREASE FEDERAL FUNDING FOR INSPECTORS

WE MUST ACT NOW IF WE ARE TO GUARANTEE THAT THE AMERICAN DREAM REMAINS AN EQUAL OPPORTUNITY EMPLOYER AND NOT JUST A RIGHT OF THE PRIVILEGED FEW. AS THE TWENTIETH CENTURY DRAWS TO A CLOSE WE MUST ENSURE THAT THE LEGACY OF CHILD LABOR BECOMES ONCE AGAIN A DISTANT MEMORY.

Mr. Lantos. Congressman Schumer, you have been focusing in your testimony on penalties, which was very helpful because your colleague dealt with some of the issues in your proposed legislation. It is the view of the Chair that unless penalties are significant they are meaningless. Token penalties, token financial penalties for a Burger King really don't deter continued exploitation of child labor.

It is my view, also, Congressman Schumer, that one of the best penalties particularly for large employers is publicity, adverse publicity. The fact that every paper, television network tells the American people that "company X" is violating child labor laws or endangering the lives of young people by making them drive fast to deliver that pizza, do you feel that it is the responsibility of all of us in this field, both Congress and the Department of Labor, to name names, not just deal in generic terms as fast food enterprises or pizza parlors. Aren't the American people entitled to know the names of the companies that violate so they will get the opprobrium, and the companies that do not violate are not inadvertently lumped in with bad fast food chains because there are fast food chains that don't violate child labor laws? I think the American people are entitled to know that, too.

Mr. Schumer. Mr. Chairman, you're right on the mark. The spotlight will deter the large violator in large part because a company that is spending millions and millions of dollars to build up its image with all their paid advertisements is not going to want to be named as a child labor law violator. I have a feeling that right now as we speak, probably at the highest councils in the Burger King organization, people are discussing not only how to counter the bad publicity, but much more importantly, how to start complying with the law better.

So, I believe you're 100 percent right, that we should identify those who violate and publish their names for two purposes. One, so that the public can be more informed; second, so that we can separate the good from the bad and let the American public help create some pressure to change. Of course, we need more than publicity, as you have acknowledged, but publicity does help, no question about it.

Mr. Lantos. I'm very pleased to hear you say that because in some other areas we always hear notions such as national security and other excuses for keeping the facts from the American people. Well, there are no national security considerations involved in the labor practices of fast food chains.

Congressman Shays.

Mr. Shays. In the construction field since 1970, when OSHA was created, there have been over 100,000 deaths. This is not children, but construction workers. There have only been 13 successful prosecutions, and one person, only one person, has ever spent any time in jail. Because the penalties are a joke, and the test to prove guilt is so stringent as to make it not worth the effort, I'm wondering if that same analogy can be connected with child labor laws. Do you have any idea of the number of deaths?

Mr. Schumer. Fifty-nine.

Mr. Shays. Were those children doing work that was considered unsafe? Were they illegally employed? Or is that difficult to know?

Mr. **Schumer**. I don't have the exact numbers. I know that a certain number were, I can get you the details of each one and I'd be happy to submit it for the record.

You are certainly right on your point. The penalties in this area are so low that many employers consider it a cost of doing business and particularly when you get the small employers—I forgot to add, for the small employers no amount of publicity is going to matter, because what a lot of the sweatshop operators do, for instance, is when they're discovered they fold up, they get a new name, and they open up three blocks down and they're legally a new entity and nobody knows that the old entity is connected to the new entity.

So, we certainly need tougher penalties. I don't think anyone would dispute it, and I hope that the Secretary of Labor will either support our bill or come out with her own proposal increasing tougher penalties.

Mr. **Shays**. I'd just make a request that when you put forth this bill and you're working on it, you might consider looking at some of the OSHA violations as well, in the construction area, and maybe have it be more comprehensive because I think we need it all the way down the line.

I mean, your major point to me, I think, is that we simply aren't going to ever have enough inspectors even if we doubled it or tripled it and so the penalty has to be so severe that it's not even worth an insignificant risk.

Mr. **Schumer**. Right, there are signs in New York where they say "don't even think about parking here;" well, I think what we want is to say to every employer, typical New Yorkese, I know, but we really, we want for every employer in this country there should be a sign "Don't Even Think About Violating Child Labor Laws."

Mr. **Shays**. And that will only happen if the penalties are severe enough.

Mr. **Schumer**. I agree. As you know, I'm chairman of the Criminal Justice Subcommittee and we're looking at the whole area of labor penalties.

Mr. **Shays**. Terrific. Thank you.

Mr. **Lantos**. Congressman Wise.

Mr. **Wise**. No questions at this time. I would like to thank our colleague for all that he's done in this area.

Mr. **Lantos**. I certainly want to join in that and I'd like to invite Congressman Schumer to join us on the panel if his time allows it. We'd be delighted to have you.

Mr. **Schumer**. I appreciate it, thank you.

Mr. **Lantos**. Before calling our second panel, the chairman would like to express his very deep appreciation to Mrs. Joy Simonson who prepared the bulk of the work for this hearing, assisted by our most able chief counsel, Mr. Stuart Weisberg. We are very grateful for their work.

Our next panel will please come forward. Mrs. Suzanne Boutros of Plainfield, IN; Mr. Matthew Garvey, accompanied by his mother, Ms. Valerie Tyra, of Laurel, MD; Ms. Joyce Bentzman of the District of Columbia; Mr. Marshall Garcia, executive vice president of Local 1199 of the Retail Warehouse Distributor Store Workers Union, who will be accompanied by Bob McFeely of New York.

Will you all please stand and raise your right hand?

[Witnesses sworn.]

Mr. LANTOS. We're very pleased to have you, all of you. You are helping not only this Congress but the American people in assuring that child labor violations do not occur. Your prepared testimony in each case will be entered in the record in its entirety. You may proceed in your way.

We begin with you, Ms. Boutros, and I ask you to pull the mike very close to you, push your papers to the side and that way it will be easier, and you may proceed in any way you choose.

STATEMENT OF SUZANNE BOUTROS, MOTHER OF JESSE COLSON

Ms. BOUTROS. Thank you. As you stated earlier my name is Suzanne Boutros and I had a 17-year-old son, Jesse Colson, who died on June 3, 1989, while making a delivery for Domino's Pizza.

I am here today as a concerned parent and citizen to address the exploitation of teenagers and the dangers in the fast food industry, and particularly the pizza delivery industry.

In my hand here are petitions signed by citizens also concerned with this problem.

Domino's has a policy of guaranteeing the delivery of a pizza within 30 minutes from the time an order is placed. To deliver their product, Domino's relies on young people whom they hire as drivers. I wish that someone at Domino's corporate headquarters had taken 30 minutes to think about the sensibility of their policy. That 30 minutes just may have saved my son's life.

Jesse had been job hunting without success when he learned that the Mooresville, IN Domino's store was hiring. When he went to the store to apply, he was told by the manager that if he had a driver's license and a car, the job was his. Jesse had been working for Domino's for approximately 3 weeks when he slid off the road one night in January—this was an icy curve—he was making his last delivery of the night on his way home.

He spent 3 weeks fixing that car and during that time he was called several times by his manager trying to find out when he was going to return to work. Jesse was afraid that he was going to lose his job if he didn't get back to work right away.

After he returned to work I noticed that he became nervous and he seemed to be in a hurry most of the time. He also started working longer hours. When I questioned him about his hours, he stated that he was going to be a "manager in training" and was learning to "close." At the time I thought he was way too young and inexperienced to be training for this type of a position.

By the end of April, I noticed that Jesse's driving habits were not as good as they had been. He would leave for work in plenty of time to get there but he seemed to be in a big hurry anyway. When my husband and I questioned him about this, he began to talk about the pressure he was feeling. I could see that he was pressured just by looking at him.

We also began to question the distance he was having to go to deliver these pizzas. Some friends of ours live a good 7 miles from the store where he worked, and 7 miles is a long way when a young person is under a time restriction. Jesse was not getting enough sleep during this time due to the late hours he was working. He would be so "wired" when he came home at night that it took him a while to relax just so he could fall asleep. It was becoming apparent to me that the whole Domino's work ethic was a recipe for disaster.

Finally, I told Jesse he needed to find another job, this one just wasn't worth it. Not only was he under too much pressure and not getting enough sleep, he was also tearing up his car and he wasn't receiving enough gas money from his employment to have enough to put into his car for the deliveries each night. He agreed and he did find another job which he would have started the following Monday, June 5.

On Saturday, June 3, the day of Jesse's death, I had let him sleep in because he had worked late the night before. When he got up he told me he had been having clutch trouble the night before and he went to check it out. He discovered that his car had a flat and by the time he got it repaired that day he was running late for work. As he ran out the door, he asked me to call his manager to let him know that he was running late. That was the last time I saw him alive.

During the day, it had begun to storm and by that evening there was water standing in the streets and roads. Mooresville is a rural area with badly paved roads, they're rough, they're curvy, they're winding. The site of the accident was exactly 3 miles from the Mooresville store, and I don't know where he was headed that night, but it was apparent that it was some distance further than the accident site.

From what the police officers could tell, Jesse was driving too fast and he came upon a small rise in the road with standing water. He hydroplaned and became airborne. The officers told me there was no way he could have controlled the vehicle, which was a Toyota pickup truck that belonged to the store.

The truck wrapped around an enormous utility pole and Jesse, who wasn't wearing his seatbelt, was thrown between the door and the doorframe and killed instantly. His aorta was ruptured.

Officers told me that it wasn't likely that a seatbelt would have saved his life.

Because the majority of the employees in the pizza industry, as well as the fast food industry in general, are teenagers, as you've heard this morning, my concern for safety is great. The real Domino's effect occurs when teens are toppled because of unsafe delivery policies based on speed alone.

I am concerned that Domino's and other pizza companies are violating child labor laws and hiring drivers who are under the age of 18. My son was only 17.

I discovered after his death that on the door of the store where he worked was an ad posted for drivers. The number 18 had been crossed out, and the numbers 16 and 17 substituted.

Last month, my understanding is that a driver for that same store was involved in an accident and on the police report his age was stated to be 16.

In addition, we were not aware that my son should have been carrying business insurance on his personal car which he often used for these deliveries. Employees apparently are not told that they must carry this business insurance on their personal cars.

Domino's instills in our youth a belief that speed equals success. The fact, though, is that speed exceeds success and common sense. The end product of that philosophy is a tremendous pressure on these drivers to deliver pizzas in 30 minutes or less.

Domino's says that their policy is speed in the store, not on the road, but how can a manager expect kids to hustle by running to and from their cars and in the store and then assume that they can make the switch to a slow, relaxed pace when they are inside those cars?

As we all know, teenagers don't need much encouragement to speed in the first place.

Actions by Domino's personnel illustrate my statements. In Pittsburgh, PA in October 1985, Mary Jean Kranack and her husband were struck in the passenger side of their car as they drove past a Domino's store at the same time a Domino's driver was "hustling" out of the parking lot. According to the Kranacks' statements, the store manager came running out of the store, grabbed the pizza out of the wrecked delivery vehicle, passed it off to another driver and said, "Let's get this pizza on the road."

Thirty minutes of sensible talk on safe delivery driving might have prevented this accident.

In the store where my son worked, a "King of Lates" badge was awarded to the driver with the most late pizzas each week. This type of ridicule and half-baked humiliation is another incentive for drivers to do anything to get a pizza delivered on time.

Delivery practices based on timed guarantees are a real two for one deal. They are certainly harmful to employees, but these pizza policies endanger the public as well. Many deliveries are made in neighborhoods where there are young children outside at play.

I do not presume to have the authority to tell a company how to run its business, but when a sales gimmick such as the one used by Domino's endangers not only the lives of its employees, but the public at large, I firmly believe we must all object and take action.

I have been told by two of my State representatives that State action cannot be undertaken because this is a national problem. So, where will it end?

The scariest slice of the problem is that most of the employees in the fast food industry are teenagers. These employees need some type of protection from employers who exploit them without regard for their safety and well-being.

For my part, I have recently formed, along with Bob Harbrant, who is president of the food and allied service trades department, an organization called PADD, people against dangerous deliveries. PADD was formed as an effort to abolish these unsafe delivery practices.

I would be quite willing to work with this committee to do anything at all possible to improve this situation, and I thank you for inviting me here today.

Mr. LANTOS. Let me first say, Ms. Boutros, on behalf of all the parents and grandparents in this country, that by your testimony you may have saved a lot of young lives, and we simply cannot tell you how deeply grateful we are to you because this appearance is not an easy one, but you are trying to protect other mothers and fathers, grandparents, from going through the experience you and your husband were forced to go through.

We'll give you a chance to catch your breath for a few minutes and move onto our second witness before we begin to question, if that's all right with you?

Ms. BOUTROS. Thank you, OK.

[The prepared statement of Ms. Boutros follows:]

PRESENTATION TO CONGRESSIONAL SUBCOMMITTEE

Good morning. My name is Suzanne Boutros, and I had a 17-year old son, Jesse Colson, who died June 3, 1989, while delivering pizzas for Domino's Pizza.

I am here today as a concerned parent and citizen to address the problem of exploitation of teenagers and the dangers in the fast-food industry -- particularly the pizza industry. In my hand are petitions (Exhibit 1) with the signatures of citizens who are also concerned about this problem. While there are numerous problems, my main focus today will be on pizza delivery and, specifically -Domino's Pizza, Inc.

Domino's has a policy of guaranteeing the delivery of a pizza within 30 minutes or less from the time an order is placed. If the 30-minute time limit is exceeded, the pizza is either free or it is discounted.

According to statistics developed by Johns Hopkins University, the American Pediatric Society and the National Safe Kids Campaign, the number 1 cause of death from birth to age 35 is accidents - and the majority of those accidents are caused by motor vehicles.[1] Because the majority of the employees in the pizza industry, as well as the fast food industry in general, are teenagers, my concern for safety is great. It is my firm belief that this sales gimmick - the "30-minute delivery guarantee" - is not only unsafe, but very dangerous, for teenagers and adults. This has been proved not only by my son's death, but the many injuries and deaths prior to and since his death.

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[1] Hoosier Safety Council Seminar - "Preventing Childhood Injuries", February 12, 1990. Jerry Hauer, Commissioner, Indiana Emergency Medical Services, Commission, Indianapolis, Indiana; Jeffery Diver, Field Director, National Safe Kids Campaign, Washington, D.C.; Dr. Charlene Graves, M.D., Methodist Hospital, Indianapolis, Indiana; Judy Doll, Automotive Safety for Children, Indianapolis, Indiana.

I also have a great concern for the fact that Domino's and other pizza companies are violating child labor laws and hiring drivers who are under the age of 18 (Exhibit 2). My son was only 17. I discovered after his death that on the door of the store where he worked was posted an ad for drivers. The age limit of 18 had been crossed out and the numbers 16 and 17 substituted. Last month, a driver for the same store was involved in an accident. According to the police report, he was only 16 years old. He may have lied on his application, but that only proves that not all Domino's managers check a potential employee's driving record to verify his age or to identify any driving violations.

Neither my son nor I were aware of the law requiring that he be at least 18 to drive for Domino's. I became aware a few months later when I was questioned by an agent for the Indiana Department of Labor.

Last week, the Burger King corporation was cited for violation of child labor laws because they hired children under the age of 16, had underage cooks and worked their employees too many hours.[2]

In addition, we were not aware that my son should have been carrying business insurance on his personal car, which he often used for these deliveries. Since Jesse's death, I have learned of many instances in which there have been underage and non-insured drivers. These employees apparently are not told they must carry business insurance on their personal cars when used for pizza delivery. This situation is compounded by the fact that most insurance companies will not insure a person they know is delivering pizza.[3]

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[2] CNN Headline News, March 8, 1990.

Domino's instills in our youth a belief that speed equals success. The end product of that philosophy is a tremendous amount of pressure on drivers to deliver pizzas in 30 minutes or less. Domino's says that their policy is speed in the store, not on the road. How can a manager expect kids to "hustle" by running to and from their cars, and in the store, and then assume they can make the switch to a slow, relaxed pace once they are inside their car? From our observations, nearly all of the drivers do not wear seat belts in order to save time. One Domino's driver stated that the word "hustle" was Domino's euphemism for speed. I, along with many others maintain that teenagers don't need any encouragement to speed in the first place. And when you put "hustle" and speed with teenagers, you have a dangerous combination. Not only is the situation dangerous at that moment, but it also teaches young people poor driving habits they may continue throughout their lifetimes.

Law enforcement officials have expressed concern as well. Traffic accidents are already numerous enough without this added ingredient for danger. Through the use of their safety training video, Domino's tells their workers that they are "professional" drivers. Sounds good, but this type of statement convinces those drivers that whatever they do to get that pizza delivered on time is all right because it is part of their job and they are "professionals". This legitimizes their sometimes hazardous actions.

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[3] Conversations with underwriters of various insurance companies, Indiana Department of Insurance and Indiana Department of Transportation (See Exhibit 3).

Actions by Domino's personnel illustrate this statement. In Pittsburgh, Pennsylvania, in October, 1985, Mary Jean Kranack and her husband were struck in the passenger side of their car as they drove past a Domino's store at the same time a Domino's driver was "hustling" out of the parking lot. According to the Kranacks' statements, the store manager came running out of the store, grabbed the pizza from the wrecked delivery vehicle, passed it off to another driver and said, "let's get this pizza on the road!" It was not until the pizza was once again on its way did that manager stop to assess the damage and see if anyone was hurt. Mary Jean was badly hurt and will live with chronic pain the rest of her life (Exhibit 4).

In Tampa, Florida, in December, 1989, a Domino's driver was involved in an accident and his first instinct was to call the store for another driver to pick up the pizza he would be unable to deliver.[4]

A store manager in Tampa, Florida knowingly sent a driver into a high crime area despite repeated warnings from police officers to stay away from that area. That driver was robbed and beaten severely. It appears that some managers will do anything for a sale (Exhibit 5).

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[4] CNN Newswatch, December 31, 1989.

In the store where my son worked, a "King of Lates" badge was awarded to the driver with the most late pizzas each week. This type of ridicule and humiliation is another incentive for drivers to do anything to get a pizza delivered on time.

In the Pittsburgh area, Domino's drivers are awarded "hustle bucks" when they are seen "hustling" by a mystery driver, who is hired by Domino's to follow the delivery personnel. In other areas, such as ours, the delivery area is so large that it is virtually impossible to make these deliveries **safely** within the time limit.

An ex-store manager told me that Domino's expected their drivers to run to and from the store to their cars and the homes where they deliver. This alone presents an unsafe work environment. An elderly driver in Oceanside, California related to me that most of the pizzas he was given to deliver had only 6-10 minutes left before the "30-minute" deadline. He slipped and fell running to a customer's door one night and broke his foot. In great pain, he was left to fend for himself by both the customer and his store manager.

A pregnant female driver in Junction City, Kansas begged not to go on a particular delivery because it was storming and she would have to climb stairs at an army barracks. After the threat of losing her job, which she desperately needed, she took the delivery and fell down the barracks stairs and miscarried. After another driver came to the hospital to get the keys to the company truck she was driving and the money bag she was carrying, she received a note in the emergency room that she was expected to return to work when she was released.

Another incentive for these drivers to speed is the pay structure. While Domino's headquarters maintains that the cost of the free pizzas or the discounted pizzas does not come out of the driver's pocket, it is, in fact, being taken from the driver's "gas money" in some stores. "Gas money" is a percentage (usually 6%) of the amount of money each driver collects for pizzas per night. With such a pay structure, it doesn't take a genius to figure that the more pizzas delivered, the more money he or she will make -- and how does one deliver more pizzas? By driving faster, of course.

Ex-store managers and drivers have told us about the pressure they have felt. I could see that my son was experiencing a great deal of pressure and we discussed it. All too often, stores do not have enough drivers to handle their peak delivery times. Jesse was called in on his days off and he was asked to come in earlier than scheduled during the last week before his death. I encouraged him to find another job, which he did. But, he was killed two days before starting that job. His was a senseless death.

While delivery practices based on timed guarantees are certainly harmful to employees, these pizza policies endanger the public at large. Many deliveries are made in neighborhoods where young children are often outside at play. I have received calls from two different people complaining about drivers from the same Domino's store driving so recklessly through their neighborhood that they had literally run young children riding bicycles off of the road. One of the callers related that she had been run off the road twice in her car by the same driver.

I do not presume to have the authority to tell a company how to run its business, but when a sales gimmick such as the one used by Domino's endangers not only the lives of its employees, but the public at large, I firmly believe we must all object and take action.

The accident rates on our streets and highways are high enough without the added problem of dealing with drivers darting in and out of traffic, running red lights, and speeding at rates in excess of 30 miles an hour over the speed limits - all for the sake of a pizza.

I have been told by two of my State representatives that State action cannot be undertaken because this is a national problem. So where will it end? Other pizza chains have adopted Domino's sales gimmick to garner their share of this highly competitive industry. One has since voluntarily dropped it due to the negative publicity we have generated (Exhibit 6), but Domino's has refused to do this. McDonald's and Hardee's have already gone into the pizza business. It is conceivable that they and other fast-food chains will start delivering in order to compete. This trend has already started. It is my understanding that in the Washington, DC area, for example, you can now get Chinese fast food delivered to you within 30-minutes or less - guaranteed! The fast food industry is so competitive that these gimmicks can easily get out of hand. How long might it be before delivery is guaranteed within 15 minutes?

The scariest part of this equation is that the majority of the employees in the fast-food industry are **teenagers** -- not only the pizza makers and drivers -- but several of the managers, as well. These employees need some type of protection from employers who exploit them for their own personal gain without regard for their safety and well-being.

That is why I am here today -- to appeal to you in your capacity to help us do something about it. I have received a tremendous amount of support from all over the country. We must all try to save lives in any way that we can.

For my part, I have recently formed, along with Bob Harbrant, President of the Food and Allied Service Trades Department, an organization called PADD, People Against Dangerous Deliveries. Padd was formed as an effort to abolish these unsafe delivery practices. Thus far, we have instituted a petition campaign, and through the use of the media, are educating the public with regard to this problem. People who live in an area where a Domino's store is located are already aware of this problem. Because of our goals, PADD has been endorsed by The National Safe Workplace Institute (MADD, the National Safety Council, the Hoosier Safety Council and National Safe Kids Campaign - pending).

I know people who continue to order Domino's pizza but have requested they not receive the 30-minute guarantee. They are met with hostility and defensiveness over the phone, while most of the drivers who are aware of the requests have indicated their appreciation.

I offer the following as possible solutions to this problem:

1. The imposition of stiffer penalties for employers who violate child labor laws. The owner of the store where my son worked was fined $1,000. Such a small amount cannot impress upon these violators the seriousness of their offense. According to the Labor Day '89 report published by The National Safe Workplace Institute (Exhibit 7), all too often, even these small fines are waived by OSHA.
2. A requirement that drivers have a chauffeur's license. This is already a requirement in the State of Tennessee.
3. Legislation abolishing the use of timed delivery in the fast food and food service industry in general.
4. An increase in workers' compensation payments from companies whose employees are injured or killed in the performance of their jobs. Perhaps this would cause these companies to take another look at their "practices" if they are hit hard enough in their pocketbook.
5. Better supervision of the fast food industry by the Wage and Hour Division of the Department of Labor to ensure that the child labor provisions of The Fair Labor Standard Act are not violated.

I would be more than willing to work with this Committee in solving what I believe to be a major problem for all of us.

Thank you for your time and concern.

Mr. **Lantos**. Our next witness is Matthew Garvey, who is accompanied by his mother. Your written statements will be entered into the record and both of you may proceed in any way you choose. Matthew, will you begin, or will your mother begin?

Ms. **Tyra**. Matthew will begin.

Mr. **Lantos**. Matthew will begin. Pull the mike close to you, if you would, we're very pleased to have you and we'd like to ask you in your own words to tell us what your experiences were as a young worker.

Mr. **Garvey**. At the age of 13 I got employed at the Quality Car Wash——

Mr. **Lantos**. Where is the Quality Car Wash?

Mr. **Garvey**. It's in Laurel.

Mr. **Lantos**. Laurel, MD?

Mr. **Garvey**. Yes.

Mr. **Lantos**. And you were 13 years of age?

Mr. **Garvey**. Yes.

Mr. **Lantos**. Go ahead.

STATEMENT OF MATTHEW GARVEY, ACCOMPANED BY HIS MOTHER, VALERIE TYRA

Mr. **Garvey**. They didn't ask me for a work permit, they just hired me anyway, and I only worked there Saturdays and Sundays from 6 to 6. It was a weekend job and it was hard for me to come by a job, so I took it. I saw no danger in the job, but there is a lot of equipment and stuff around it that other people around me almost got hurt on, but I didn't think anything of it because I just thought, well, it's not going to happen to me, I'll just stay away from it.

I was sitting on top of the dryer because it was hot outside and if you sit on top of the dryer it blows cool air out so you weren't so hot, but one of the boys that I was working with was burning the hairs of my leg and I lifted my leg up and it sucked my leg down into the dryer and it ripped it completely off and it spit me out and I was out on the street and my leg was in the dryer.

The machine shouldn't have been working the way it was because it had no top on it. It was supposed to have a safety lid on it, but they made it work without one so you could just turn it on and off whenever. But it wouldn't cut off quick enough because it just happened too fast and the place only got fined $400 for that, which is kind of ridiculous, because——

Mr. **Lantos**. Will you please repeat that statement because Congressman Shays didn't quite hear you?

Mr. **Garvey**. How much they were fined?

Mr. **Lantos**. Yes.

Mr. **Garvey**. They were fined $400 for the loss of my leg.

Mr. **Lantos**. How long were you in the hospital?

Mr. **Garvey**. For about 2 weeks.

Mr. **Lantos**. And you now have an artificial leg?

Mr. **Garvey**. Yes, sir.

Mr. **Lantos**. I wonder if your mother would care to add something to your testimony. If you'll pull the mike close to you, please, and we very much appreciate your appearing as well.

Ms. **Tyra**. Thank you, I'm really glad to be here. I am so happy that something is finally being done because after my son's accident I was very aware of the children in the neighborhood and the types of jobs that they were taking. The jobs were illegal, almost all of the jobs were illegal. I even tried to get news stations to get an investigative reporter to come out just into our neighborhood and spot check the businesses. There evidently wasn't enough interest in it at the time.

I would like to say that the year after Matthew lost his leg is a year that I'll never forget as long as I live. Matthew, I'm sure, will never forget it, but we're going on with our lives now. We are still recovering from the tragedy.

The car wash was fined $400 for the dryer being defective. They were fined $333 for exposed electrical wiring in wet areas; that could have killed somebody on the spot. This is not just children that Quality Car Wash was jeopardizing, it's adults also.

All Matthew was entitled to was a settlement under workman's compensation. The workman's comp code protected these people from a civil suit and I don't think that the workman's comp laws should protect employers who break laws. I'd like to see those laws changed, and that's not just for the children, that is for all the workers in this country, it is not right.

Mr. **Lantos**. We agree with you. We agree with you.

Ms. **Tyra**. Excuse me if I get upset.

Mr. **Lantos**. You have every right to get upset.

Ms. **Tyra**. I have a couple pictures that I would like to share with the panel, if that would be OK.

Mr. **Lantos**. We would appreciate it.

Ms. **Tyra**. That is a result of the accident. That is what the machine did to my son's leg, and that's after the doctors cleaned it up.

This is what I had to look at, at home for months and change the bandages every day, and Matthew had to change his own bandages.

This is what can happen when employers are negligent.

Mr. **Lantos**. Matthew, we are very very grateful to you and to your mother for coming before us and making your statement. The pictures are too horrendous to describe and your experience is too horrendous to describe.

Ms. **Tyra**. There are no words to describe it.

Mr. **Lantos**. There are no words to describe it, I agree with you. We're very grateful to you. We are sure, Matthew, that you will go on and build a fine life, but we all wish that this tragedy wouldn't have happened. It clearly could have been prevented, it could have been prevented in a variety of ways. It could have been prevented with safe equipment, and it could have been prevented by not allowing a 13-year-old youngster to be employed in what clearly is a dangerous occupation. We're very grateful to both of you.

I should mention for the record that 3 months after this tragic accident Maryland inspectors found deficiencies not fixed so they fined the company again and I do not know whether as of this moment the deficiencies have been fixed or not.

Our next witness is Joyce Bentzman of the District of Columbia. We are very pleased to have you. Joyce, if you'll pull the mike close to you, please proceed in any way you choose.

STATEMENT OF JOYCE BENTZMAN

Ms. **Bentzman**. Good morning, my name is Joyce Bentzman and I am 17 years old. I'm here this morning to speak of my work experience as a child.

In 1985 when I had just turned 13, I started working at a sandwich shop here in Washington, DC.

Mr. **Lantos**. What's the name of the shop?

Ms. **Bentzman**. Do I have to say it?

Mr. **Lantos**. Yes.

Ms. **Bentzman**. Subway Sandwiches.

Mr. **Lantos**. I'm sorry?

Ms. **Bentzman**. Subway Sandwich Shop.

Mr. **Lantos**. Subway Sandwich Shop?

Ms. **Bentzman**. That is correct.

Mr. **Lantos**. In Washington, DC.

Ms. **Bentzman**. Right.

Mr. **Lantos**. Very good, please go ahead.

Ms. **Bentzman**. OK. When I had just turned 13, I started working there. I wasn't forced to get a job, and my mother was very well off. I was riding my bike 1 day with some friends and we came across a help wanted sign. My friends dared me to apply for the job so like any 13 year old I did. I was very nervous but the owner of the sub shop obviously needed some help and was reluctant to hire me. I didn't have any experience except for some babysitting and I had lied about my age.

Mr. **Lantos**. Did they check your age at all?

Ms. **Bentzman**. No, they did not.

Mr. **Lantos**. What did you tell them how old you were?

Ms. **Bentzman**. I told them I was 14 and going on 15.

Mr. **Lantos**. But you showed them no paper, no document?

Ms. **Bentzman**. No.

Mr. **Lantos**. They just hired you.

Ms. **Bentzman**. Then again I did not look like I was 13. I looked much older, and I was eager to learn. He hired me on the spot and later that day I was to be trained without being paid. I told my mom and she was very worried about my working there at an early age.

After a few weeks my boss needed a work permit from school to work, so at school I walked into the counselor's office and picked up some permit cards. Even if I hadn't been able to get them, I could have just as easily asked someone older to get them for me.

I sometimes worked there after school and worked there almost every weekend, and I was often called to his convenience. I hated it. My boss would verbally abuse me, not in terms of cussing or swearing at me, just yelling at me for dropping some lettuce or giving a customer too many olives. He would yell at me because I didn't know anything and many times I would cry in the bathroom and come home crying. The only cheering up I would get was sometimes from his son. My mother never saw me cry and she was very worried about my working there and I just continued working there.

I was paid what seemed a lot to me, but was actually very little. At first I was getting paid something like $3.35 and $3.50 an hour and later on he came up with an excuse for dropping my pay to $3 and—or, $3.15 an hour. I do not remember what the excuse was.

Later that year I went to South America and when I came back I found out the store had been sold. I breathed a sigh of relief, I wouldn't have to work there again, but I found myself being very bored so in April 1986, I reapplied to the sandwich shop. I was hired and on the July 4, weekend of 1986 there was a change of ownership. This has been the third owner I had worked with.

The new owner seemed much nicer and I was given what seemed a hefty raise to $4.25 an hour. I worked there for 6 months and the day before my trip to Peru, on December 15, 1987, I cut my finger on the meat slicer. I screamed at first and started crying. It really hurt and it just kept bleeding and bleeding and bleeding and bleeding. My bosses wanted to take me to the hospital and being as stubborn as I was I did not go. Upon my arrival in Peru the next day I went to the doctor and he told it wasn't that serious but it could have been serious. I thought to myself what if—what if it wasn't the tip of my finger, or what if it was a whole finger, or my hand.

Upon my arrival back to the States I quit working there. I got a job at an ice cream shop and I worked horrendous hours and never got paid. Finally I was given $400 for my pay. I went through three ownerships there as well. There was nothing dangerous about working there, but I quit there after 2 years.

I went off to a pizza shop to answer phones and found it boring to work there and an inconvenience for me so in the spring of 1989 I went back to the ice cream shop and to the sandwich shop. I worked week nights at the ice cream shop and weekends at the sub shop. The hours were very long and I did go to school, I was very tired in school, but I forced myself to go to school.

Mr. **Lantos**. Joyce.

Ms. **Bentzman**. Yes, sir.

Mr. **Lantos**. What's your guess? How many hours a week did you work in that period?

Ms. **Bentzman**. OK, sometimes I worked as little as 10 hours a week, and at one point I had put in anywhere between 70 and 80 hours a week.

Mr. **Lantos**. You worked between 70 and 80 hours a week?

Ms. **Bentzman**. That was during summer. Sometimes during the school year it was anywhere between 30, 40 hours depending on how I wanted to work.

Mr. **Lantos**. How many hours did you spend at school during that period?

Ms. **Bentzman**. I spent the full 6 hours that were required for my going to school, and I did as best as I could, and right now I rank 54th in my class of 399. I think I've done very well but if I had to go back and do this all over again I don't think I would do it. It has been a burden, it has been difficult, and over the years I have saved enough money to go to 2 years of college, which is the only plus, but there are other children who aren't as lucky as I am and are taken advantage of.

Many children are hurt on the job every day, many are unreported, and that really shouldn't happen to children who are working. Child labor exploitations happen every day and some children do not have a choice. I had a choice and I think I might have made the wrong choice to work. I look back and I don't know if I would work again in the same conditions if I was given the chance all over again.

Thank you.

Mr. **Lantos**. Thank you very much, Joyce. We'll have some questions of you, but for the record, what's the name of the ice cream shop where you worked?

Ms. **Bentzman**. Baskin-Robbins.

Mr. **Lantos**. Baskin-Robbins.

Ms. **Bentzman**. Correct.

Mr. **Lantos**. And for the record, will you describe again specifically how old you were when you worked there and how many hours you worked?

Ms. **Bentzman**. When I worked there it was from February 1987, through September 1989. I worked last December for a few weeks and when I started working there on the second day that I was given the job I was given the key to the store and I would work 12 hours a day during the weekends and 7 hours from 4 to 11 during the week days.

Mr. **Lantos**. How old were you in February 1987, when they hired you there?

Ms. **Bentzman**. Fifteen.

Mr. **Lantos**. Fifteen, and how many hours—that is—how many hours did you work shortly after you were hired in the first few months?

Ms. **Bentzman**. It depends, sometimes it was 40 hours, sometimes it was 50. It was all on my discretion. Any hours I wanted to work I was welcome to work. There was never a limit until the hours I was——

Mr. **Lantos**. That was during the school year, Joyce?

Ms. **Bentzman**. Yes, sir.

Mr. **Lantos**. So, you worked at age 15 as many as 50 hours a week during the school year?

Ms. **Bentzman**. Correct.

Mr. **Lantos**. Did it ever exceed 50 hours do you think?

Ms. **Bentzman**. It could have.

Mr. **Lantos**. It could have.

Ms. **Bentzman**. I'm not very sure.

Mr. **Lantos**. Nobody put any limitation on your hours?

Ms. **Bentzman**. Never.

Mr. **Lantos**. You worked as many hours as you wanted to?

Ms. **Bentzman**. Correct.

Mr. **Lantos**. We'll come back to you and I want to thank you very much for your testimony.

We understand the transportation problem, but I wonder if you would briefly summarize, Mr. Garcia, Bob McFeely's experience and before you do that please identify yourself for the record and speak directly into the mike.

STATEMENT OF MARSHALL GARCIA, VICE PRESIDENT, RETAIL, WHOLESALE, AND DEPARTMENT STORE WORKERS UNION, ACCOMPANIED BY BOB McFEELY

Mr. **Garcia**. Yes, my name is Marshall Garcia, I am a vice president of the Retail, Wholesale, and Department Store Workers Union. I'm from local 1199 in New York City, and we have about 5,000 people that we represent who are employed in the retail industry, and we find that more and more of this industry is coming to depend on child labor, on youngsters under 18, or under 19. We have one particular employer, Rock Bottom Stores, that has two-thirds of its staff under 19, and inevitably these youngsters are called upon in any 1 of the 30 stores in this small chain, which, incidentally, isn't that small, they do $160 million a year in business, they depend more and more on the youngsters to perform work which they should not, like operating the compactors and so on.

There is a consistent pattern throughout this employer of pushing the young people to work way in excess of the hours that they're allowed to. During school they work anywhere from 20 to 40 to 50 hours a week, and this has a detrimental effect certainly on the youngsters, and the union is before your committee today and we're before the State legislature because even the contract enforcement, and we're not a weak union, is very very difficult because of the pervasive coercion that's imposed on these youngsters. They're afraid to file a compensation claim, they're afraid to talk to the union representatives. We even have a contractual provision against people working there under 16 and they nonetheless hire people at age 15 and these youngsters are afraid to talk.

So, we're before the Congress today asking for help, and I'm sorry that Mr. McFeely, he worked—and he does work—for Rock Bottom, since he was 17, and he has testimony which he's earlier provided that he worked at these machines and he worked these excessive hours, and about the unsanitary conditions in his store in Staten Island, NY. Due to delays he isn't here yet.

Mr. **Lantos**. We appreciate that and his testimony will be entered into the record.

Mr. **Garcia**. Thank you.

Mr. **Lantos**. Let me just say that you have all done very very useful public service in preventing these outrageous occurrences from being as widespread as they obviously are, because the main value of these hearings is the deterrent effect it has—they have—on potential perpetrators of these wrongs.

Let me ask you a couple of questions, Ms. Boutros, if I may. If you had known that it was illegal for a 17 year old to have a job driving a car commercially, would you have objected to his taking the job?

Ms. **Boutros**. If I hadn't known, or if I would have known?

Mr. **Lantos**. If you would have known.

Ms. **Boutros**. I would certainly have objected if I had known it was illegal. I really didn't think too much about it in the first place because his father had delivered pizzas when he was in high school. Of course, those times were different, there was no big hurry to get them delivered anyway. I have another son who is going to turn 16 tomorrow. He's going to be getting his driver's license soon, and he's going to be out there in that work force, too, and I'm really concerned about him. Of course, I'm not going to let him be delivering any pizzas, that's for sure, but it's hard enough as a parent anyway to see these youngsters going out at the age of 16 driving on their own to begin with.

You know, sometimes I think that even our driving age limit should be raised. Probably I feel more strongly about that now, but nevertheless, you know, I definitely would not have let him work if I had known he was working illegally. We just were not aware of it.

Mr. LANTOS. I wonder if you have some recommendations for this subcommittee, for the Department of Labor, or in general to prevent this sort of tragedy from happening?

Ms. BOUTROS. Yes, I do, I've thought about it quite long and hard, and a few of my suggestions are going to be basically the same as those that preceded me by the Congressman.

First of all, I would like to see the imposition of stiffer penalties for employers who violate these laws. My understanding is that the store manager, or the store owner where my son worked, was fined a $1,000, and I think this is a pretty small fine to impact the seriousness of these offenses upon these employers. Second, I understand that quite often these fines are even waived, that they don't have to even pay the $1,000.

No. 2, I'd like to see a requirement that drivers have a chauffeur's license in commercial delivery. I think this is probably true in some industries, but it certainly is not true in the pizza industry in general. I do understand, though, that the State of Tennessee has this requirement pertaining to pizza delivery.

No. 3, I'd like to see legislation abolishing the use of any timed delivery in the fast food and food service industry in general.

Four, I would like to see an increase in worker's compensation payments from companies whose employees are injured or killed in the performance of their jobs. To me the quickest way to get someone's attention is through their pocketbook. I think if employer's compensation payments had to be increased, in addition to stiffer penalties, this would certainly get their attention a lot quicker.

Then, also, I'd like to see better supervision of the fast food industry in particular by the Wage and Hour Division of the Department of Labor and to make sure that these child labor provisions of the Fair Labor Standard Act are not violated any more.

Mr. LANTOS. Thank you very much.

Matt, what instructions were you given about hazardous jobs to avoid when you took this job?

Mr. GARVEY. They didn't really tell me too much of anything. They just told me that when the track broke down not to get next to it, and I was never really around that in the first place, because that thing always broke down. One of the people that worked there he almost got his foot cut off from it, because it always broke down, and he was—he was trying to fix it or something like that, and it almost ripped his foot off.

Mr. LANTOS. May I ask your mother a question, if you'll share your mike with her. Before Matt's accident did you know about legal limitations concerning youngsters working?

Ms. **Tyra**. No, I didn't.

Mr. **Lantos**. So you feel that we have an educational job here, too, a nationwide educational job so parents will know what the law is?

Ms. **Tyra**. Absolutely, absolutely, yes. I tried to do it through our board of education in Howard County by distributing leaflets through the school for children to take home. I found out not many of the leaflets made it home from school, but I wanted parents to be aware of what jobs their children could take or what jobs they should take and what jobs they shouldn't take. I assumed that when they hired Matthew and after they knew that he was 13 that it was acceptable, and drying cars did not seem like a dangerous job to me.

Mr. **Lantos**. What would you like to say concerning official responses following the accident from the various agencies you had to deal with?

Ms. **Tyra**. First of all, after the accident initially we had to deal with the Rockwood Insurance Co. for the car wash who at first told us that we were going to be covered by them. When Matthew got home from the hospital, nurses and physical therapist did not show up. So, on top of having to try to care for my son, I had to get on the phone and start calling around and then I was told by Rockwood Insurance: "We're not going to cover your son under workman's comp." We had a lot of volunteers who came in and helped. What other agencies—what agencies are you interested in?

Mr. **Lantos**. Did you have any other contact with any public or private entity?

Ms. **Tyra**. The Department of Labor came out to take a report for Matthew.

Mr. **Lantos**. Yes.

Ms. **Tyra**. And that was fine, they came to the house, they were very nice, they took Matthew's report and were gone.

Mr. **Lantos**. Joyce, may I ask you a perhaps difficult question. You obviously are a young lady of exceptional intelligence and drive. You have done quite well in school despite this enormously heavy work schedule. Do you feel you would have done much better had you not been working 40, 50 hours a week during the school year?

Ms. **Bentzman**. In a way I do, and in a way I don't. Working hard taught me that I have to work up to what I want, but it was very stressful and at some points I didn't do my best in school because I had to work. I didn't have to work, but then I felt like I had to work. I could have quit any time but I didn't. I don't know why, I should have, but I didn't. So, I really can't say. I have very mixed emotions about that. I can't answer that.

Mr. **Lantos**. What would be your judgement of someone else who is less than talented, less strong, less determined, having this kind of experience, 40 hours of work during school?

Ms. **Bentzman**. There is such a small portion of child—or students who can put in as many hours and do so well in school. Many of them work for the very unrealistic things that they want. Many of them ignore school once they have a job. Many of them say, well, I have a job, I can do anything I want now, and that's not true. It should be a little more difficult to get a work permit and there should definitely be some say from the school whether or not the student is able to work or not.

Mr. **Lantos**. But you testified that you could have gotten a work permit——

Ms. **Bentzman**. Exactly.

Mr. **Lantos**. Through a friend.

Ms. **Bentzman**. Exactly.

Mr. **Lantos**. So, apparently we have a problem of tightening up the issuance of work permits by schools?

Ms. **Bentzman**. Right, there should be a parental consent, maybe, to get a work permit, and some investigation as to why a student needs to work, be it to help a family or for his own. I never had to help my family, I just did it because I wanted to. There was never a burden on me to work, but it's something that I just look back on now. There are other people who are more unfortunate than I am and I see that. I just consider myself lucky.

Mr. **Lantos**. I understand.

Congressman Shays.

Mr. **Shays**. I just want to make this point for the record. You're saying they were fined $400 for the dryer and $300 for the electrical wire, and your mother said to us that your settlement was with worker's comp, that you could not sue this car wash for damages. Then you said later on, I think, that they were revisited, or the chairman did, and there was another fine?

Ms. **Tyra**. Yes. Do you have copies of everything that I sent to Joy Simonson, because I sent copies.

Mr. **Shays**. Yes, OK, but just for the record if you could tell me that.

Ms. **Tyra**. When MOSHA went back through and inspected again, there were certain things that had not been fixed. These were violations that they were cited for on the first trip around, but they were not fined for them. There was a zero fine on them. When MOSHA went through the second time, the total fines came to $1,820.

Mr. **Shays**. First time around, $700 when your son lost his leg, and $1,820 the second time around, and you're saying these were——

Ms. **Tyra**. These were violations that they had been cited for on the first inspection but they failed to have the things repaired. When MOSHA came through and inspected they were fined.

Mr. **Shays**. Thank you.

Ms. Boutros, would you tell me again what the fines were that were levied?

Ms. **Boutros**. $1,000, and——

Mr. **Shays**. That was to the store manager?

Ms. **Boutros**. To the store owner.

Mr. **Shays**. Store owner.

Ms. **Boutros**. That was a franchised store.

Mr. **Shays**. OK, what else?

Ms. **Boutros**. That's it.

Mr. **Shays**. Were you able to sue the company?

Ms. **Boutros**. Possibly I could have instituted a wrongful death suit, but Indiana's laws are not structured such that they're very conducive to that sort of thing. I elected not to because there's no amount of money they could have given me to compensate me for my son's loss anyway, and these corporations just drag these cases through the courts, too, and I just felt that that wouldn't be as constructive as what I have been doing.

Mr. **Shays**. Thank you very much.

Matt, let me just go back to one question. You were 13 years old when you were working there. It's your testimony that that was in violation of the law, is that correct, that you should not have been allowed to work there?

Mr. **Garvey**. Yes, I shouldn't have been working there.

Mr. **Shays**. Now, were they fined—I'm sorry——

Mr. **Garvey**. I shouldn't have been working there. I didn't even have a work permit. I was supposed to have a work permit. They didn't even ask me for a worker's permit.

Mr. **Shays**. Was the company fined for the fact that you were working there and under age? Was there a fine?

Mr. **Garvey**. I don't know, my mom might.

Ms. **Tyra**. They were prosecuted through the P.G. County State's attorney's office and they pled guilty. This is information that I've gotten through a Mr. Melbor at the department of labor in Maryland. They were fined $10,000 and given 2 years probation. That means they were cited for the one juvenile—I mean the one minor violation, there was another minor working there illegally, evidently—they dropped that charge because they weren't charged with him.

Mr. **Shays**. Thank you.

Let me just make this point and then ask for a response to it. I know that the administration has to be more proactive and enforce existing law and I know in my heart that they have to ask for more inspectors and they've got to ask for tougher penalties. Congress has got to fund more inspectors and Congress is going to have to change the laws to make the penalties tougher and obviously that's our responsibility. So, the administration has a responsibility, we have a responsibility.

What I want to ask you is what is the role of the parent. This is even more sensitive because particularly in both your instances—you lost your son, and, you know, those pictures were something I wouldn't want anyone else to see, and with the loss of your son's leg, you were really close to deciding that your son should not have worked there. What would have made the difference? Was it the question that Mr. Lantos asked about knowing that it was illegal? I have ordered pizzas from Domino's and have been grateful to have them come on a timely basis. Obviously, I have a different view now. Did you begin to say this is crazy, my son, how can he do it in 10 minutes or 15 minutes? This is a recipe for disaster. Were you close to that point?

Ms. **Boutros**. Just prior to my son's death I was getting to that point and that's why we had the conversations about getting out of there and getting another job. He was looking when he wasn't there, or going to school, he was looking for another job, and he had found one just right along what his vocation was and that was working for a car dealership. He was interested in doing auto body work.

But I saw what was going on with the Domino's situation. I had not been really familiar with Domino's prior to his employment and then, like I said before, I didn't think much about it because his father had delivered pizzas when he was in high school, but then we're talking back in the sixties, too.

Mr. **Shays**. Is part of your comment that if you had been in your son's place, as an adult with what you've learned through life, you might have said this is crazy, this is a recipe for disaster. What I think I hear you saying to me is that basically your son was being asked to make choices that maybe he didn't have, at this time in his life, the skills to make?

Ms. **Boutros**. That's correct. Young people have not had the experience and have not developed the maturity to know when they can tell an employer, no, I will not do this, or no I cannot do this, or to know the difference to make a lot of those choices. If I had been doing that job as an adult, with the fact that I have worked out there and I know what it's like, I could tell a manager get off my back. I'm not going to speed, I'm not going to run in and out of the store and possibly fall and break a leg, as several of them have, or miscarry, as one lady did. I will not do that. It's not worth it.

Mr. **Shays**. It's sometimes even difficult for adults to tell their employers that, but obviously much more difficult for a young person.

Ms. **Boutros**. Definitely, especially if it's their very first job and they're trying to please.

Mr. **Shays**. It's obvious to me, Matt, that your mom would not have been aware of the kind of condition that you were in. Do you think if you had been older you would have been able to recognize that this was just something that was extraordinarily dangerous for you to be near, this equipment?

Mr. **Garvey**. At 13 I knew it was dangerous, some of the equipment, but some of it I just didn't—I don't know, at the way I was thinking and stuff like that, I don't know, just the way at 13 years old I was just like, well, that's not going to happen to me, it's not going to happen to me, I'm just not going to do that, just like when I was little, well, I'm not going to get kidnapped and anything like that and all these other kids get kidnapped, and it's like it's not going to happen to me. So, I just thought it wasn't going to happen to me, but it did. They told me to stay away from the track, I stayed away from the track. They didn't say anything about the dryer. They taught me how to operate the dryer. And they always saw me sitting on it and they never said anything to me before, so.

Mr. **Shays**. That's very helpful. Thank you.

Let me just ask you, Joyce, do you have a mother and father?

Ms. **Bentzman**. I live with my mother, and my parents—my father left us when I was about 2.

Mr. **Shays**. That's not too atypical of what happens in this country, a lot of young children are raised by a single parent.

Ms. **Bentzman**. Correct.

Mr. **Shays**. Was your mother working? Was she trying to support you?

Ms. **Bentzman**. Yes, she was very well off. She works in an international organization and money was never a problem in our family, ever, you know, anytime I needed anything it was given to me, but I knew the value of it.

Mr. **Shays**. I guess the question I want to reiterate, you are obviously someone with extraordinary drive, but when you said you worked 50 hours sometimes even during the school year and 80 hours, did your mom ever say, honey, this is——

Ms. **Bentzman**. Yes, she did, she was very worried and I kind of was being rebellious I guess in not listening to her. Sometimes we had arguments about it, but I would like to correct you, the 80 hour weeks were during the summer and the 40 and 50 hour weeks were during the school year. She never told me right out to quit and it was—I lived right around the corner so I wouldn't waste time in transportation. She knew exactly where I was, but she many times wanted me to quit, many many times she would beg me quit, but, you know, when you're a child you're stubborn and that's kind of nature's way and I just refused to quit.

Mr. **Shays**. Well, I want to thank all of you. I read the testimony that was supplied last night and obviously I hadn't been able to read some that wasn't provided for us, but it's very helpful testimony and I appreciate it.

Matt, I just want to say, I have one last question for you. Obviously a 13 year old who says he wants to work I happen to respect a lot. Did you apply that same kind of work ethic in school work? I don't want to embarrass you here, but I'd love to know what made work more attractive? Was work a substitute for school? Was work an addition to school?

Mr. **Garvey**. No, I was working during the summertime and only on the weekends.

Mr. **Shays**. Should I ask your mother this question?

Mr. **Garvey**. No, in school I do—when I apply myself I do well. It's like I get A's and B's when I apply myself. When I don't, they go down. I mean, I never really had a job whenever I was in school, and now for me to try and get a job, I can't get a job anyway, because I put on my application that I lost my leg and I'm not sure if that's what does it, but it's like—one of the managers almost hired me but then the other one was like, no, he came up with this excuse of why not to hire me, but I applied for this one job and everybody else who applies for it, two of my friends got the job, I didn't get it, and I put in my application before they did. It's just that on my applications that what I put on it, and it's like I don't get the job.

Mr. **Shays**. Well, I think there's a Congressman in your district who might like to help you find a job, if you want one, but obviously the school comes first. What grade are you in now?

Mr. **Garvey**. Tenth.

Mr. **Shays**. Well, I just wish you very well and I suspect you have a great life ahead of you.

Mr. **Garvey**. Thank you.

Mr. **Shays**. Thank you all.

Thank you, Mr. Chairman.

Mr. **Lantos**. Thank you very much.

Congressman Wise.

Mr. **Wise**. Thank you very much, Mr. Chairman, and I want to thank the panel for very compelling testimony.

I have a few questions. To what extent were there any kind of benefits provided in addition to the pay? Was anyone covered, for instance, by health benefits? Was there any kind of vacation policy?

Mr. **McFeely**. I apologize to the committee for being late, but my flight was delayed an hour.

Mr. **Lantos**. We do understand that and we are very sympathetic. If I may swear in the witness because we did all the others. Will you please stand?

[Witness sworn.]

Mr. **McFeely**. Could you repeat the question?

Mr. **Wise**. In addition to whatever you were paid, were you covered by any kind of benefits? Health benefit, if you hurt yourself was there hospitalization, or if you became sick did you have vacation days that you could get?

Mr. **McFeely**. My current employer, Rock Bottom Stores——

Mr. **Lantos**. Get a little closer to the mike.

Mr. **McFeely**. My current employer, Rock Bottom Stores, is covered also under a union contract, local 1199, and I do have hospital care, dental, prescription, and vacation pay, sick time, and other benefits. My situation where I work—I'm still at it, I work two jobs. I'm currently 23 years old, I started working when I was 16 year olds, I still work at Rock Bottom Stores, and I currently work for New York Telephone as a manager. I've stayed at Rock Bottom Stores not because of income but because of my concern for my fellow employees involving their contract negotiations and also because of the problems that have occurred with child labor and medical coverage and the employers refusal to answer to the law.

Mr. **Wise**. Let me ask the other panelists. Joyce?

Ms. **Bentzman**. No, never, no insurance benefits or any benefits of any kind.

Mr. **Wise**. Was your son covered by anything?

Ms. **Boutros**. No benefits.

Mr. **Wise**. Matthew.

Mr. **Garvey**. My mom says no benefits, but I'm still not clear on the question.

Mr. **Wise**. Well, benefits are whether or not there were any—whether you were covered or had protection, for instance, if you became sick, could you take a sick day off?

Mr. **Garvey**. Oh, no. [Laughter.]

Mr. **Wise**. That was what I thought.

Matthew, you may have mentioned this and I didn't hear it, when you went to work, did they know you were 13?

Mr. **Garvey**. Yes. They asked me that. It was like the second day I was working there, I was sitting on the side, and they asked me how old I was, and when I was going to go first apply for a job and I was going to tell them that I was 15 because I wanted a job, but they just asked me and I was—the first thing that came to my head was my age so I told them and that was it, they knew how old I was.

Mr. **Wise**. Were there others your age working there?

Mr. **Garvey**. There was a kid who was 9 years old that was working there.

Mr. **Wise**. What was he doing?

Mr. **Garvey**. The same thing I was doing, except he was working up front and sometimes he would come back, because up front is where they'd wash the cars down, they'd spray them with this hose, and there was another thing like in the back is where you drive the cars.

Mr. **Wise**. When you were paid, were you paid by a check or did they give you cash?

Mr. **Garvey**. A check.

Mr. **Wise**. And did it have things taken out, income tax, and social security, for instance?

Mr. **Garvey**. Yes.

Mr. **Wise**. OK, do you know how much you were making?

Mr. **Garvey**. $4.25 an hour.

Mr. **Wise**. OK.

Joyce, you mentioned that you cut your finger on a meat slicer. Was that ever reported to any agency?

Ms. **Bentzman**. I'm not sure.

Mr. **Wise**. Whether the company reported it?

Ms. **Bentzman**. I'm not sure, because the day afterwards I went to South America so I really wouldn't know. I assume it should have been, but I'm not sure at all, but now the shop has presliced meats and has gotten rid of the slicer, and has presliced vegetables as well, so that's a definite plus. There's no machinery there at all except for a refrigerator or something, that's it.

Mr. **Wise**. Ms. Boutros, does Domino's have any kind of package—benefit package for its employees?

Ms. **Boutros**. Not that I'm aware of. Possibly for their managers they do, because they would be considered fulltime.

Mr. **Wise**. But as far as the young drivers in high school?

Ms. **Boutros**. No, they were just—Jesse was paid an hourly wage, which I believe was $3.65 an hour, I think maybe it was raised to $3.85 prior to his death. Any tips that he could manage to get, and 6 percent of whatever he took in on pizzas for the night if he drove his own car. That was his gas money.

Mr. **Wise**. What was that compensation, what was he paid again, $3.60 something an hour?

Ms. **Boutros**. I believe it was $3.65, and then I think a little later on up to $3.85 an hour, that was his hourly wage. Then any tips he could manage to collect, and 6 percent of whatever he took in on pizzas per night was what he was paid for his gas money when he drove his car.

Mr. **Wise**. I, too, just want to join the rest of the panel here in thanking you for coming forward. I know it's painful, it's also a story that has to be told. I'm remembering, I'm from West Virginia, and I'm remembering that at the turn of the century we had something in West Virginia called "Breaker Boys" and these were young children that were taken into the coal mines and worked every day and many died simply breaking up coal, breaking up rock, and it was through people coming forward that eventually that abuse was stopped and we don't have, thank God, Breaker Boys any more, but maybe we do in other ways as we become more technologically superior, so I just want to thank you for bringing forward this latest evidence.

Thank you.

Mr. **Lantos**. Thank you, Congressman Wise.

Congressman Schumer.

Mr. **Schumer**. And I thank you, Mr. Chairman, and first let me say to all of you, you really are doing a service. You know, we live here in a world in Washington and we speak and think in terms of a lot of abstract ideas, and ideas are powerful, but I've been trying for several years to alert Congress' attention to this problem and I don't think anything I could do would equal the testimony that you have given. So, by coming forward and telling your story and putting in a concrete form that everyone can understand and realize that this is just not an abstract concept or some picture, but actually hurting people in a variety of different ways as you have all testified, I think, should send a lightning bolt through Congress and hopefully move the legislation and get us the more inspectors and do the kind of things that have to be done. There is nothing that equals your own specific stories. So, believe me, you've had a tremendous effect already.

I just have a couple of questions, most have been covered. First I'd like to ask both Mr. Garcia and Mr. McFeely—Mr. Garcia, while you were—I know what it's like to be late on the shuttle, Mr. McFeely, it happens to me regularly. Does Rock Bottom sort of use children as a way of not only avoiding benefits but avoiding unionization, having people be nonunion? How is it—are children much less easy to organize and get their rights and everything like that probably because (a) they're young, (b) they're more transient, and (c) they probably think, well, all the benefits will come through my family or parents?

Mr. **McFeely**. The turnover rate in my store is——

Mr. **Schumer**. This is a retail dis——

Mr. **McFeely**. Discount store.

Mr. **Schumer**. I hear their ads, I've never been in one. Retail discount store.

Mr. **McFeely**. We sell any sort of over-the-counter items from toothpaste to hair supplies.

Mr. **Schumer**. Is it a publicly owned company?

Mr. **McFeely**. No, it's privately owned. The turnover rate is about four a week. I have a crew, we're about 30 people in the store, and that's a good crew. Right now we're down lower than that. We have a baler in the back and I've seen people—it's still not properly used, the door is not closed in front of it, even though they've been investigated by the State department of labor. There have been children without working papers, there have been—there's still a truck that is unloaded every week——

Mr. **Schumer**. Two-thirds are children, you say?

Mr. **McFeely**. Yes.

Mr. **Schumer**. Right.

Mr. **McFeely**. Ranging from—when I sought it I was 16 years old, and I'm still currently employed. Some of the information they gave you was a little off, they also spelled my name wrong.

Mr. **Schumer**. On St. Patrick's Day they shouldn't spell McFeely wrong.

Mr. **McFeely**. When they unload the trucks they have—there's a platform about half a foot high and they have to put a pallet, unloading the pallets, they have to put a plate that takes the pallets off and the pallets weigh several hundred pounds and the kids have to unroll it off of the truck and it gains momentum. They try to push on the top to stop the pallet so it doesn't go crashing into the wall and knocking everything over, but while they're pushing on the top they're also bracing their feet and still coming underneath and I've known somebody who is currently employed with the New York City Department of Education as a teacher who had his foot crushed and never applied for workman's comp and never told anything about it. There is no safety procedures, no films.

I work two jobs, I still work with New York Telephone, and they have constantly films on safety, on how to handle things, wearing safety glasses, protective shoes. They are concerned with their workers, I'm not doing this as a plug for New York Tel, but I've worked on both sides of the—on the union side and now as management. They don't try to—my employer doesn't try any of that. They are only concerned with getting the merchandise out on the shelf and whatever makes the manager look good. He will constantly—he works under a budget, he says that he has—a kid will work there say 3 or 4 or 5 years, I'm currently making there $5.60 an hour, I started at $3.60, I've been working there 7 years, 16 cent increases every 6 months.

They will constantly say to you we can get good $3.60 help for you, we'll bring in two people to supply for one of you, and as a union—I wasn't even told there was a union until 1½ years after I was working there, until I was threatened with termination, they said go call your union, and I said what union.

Mr. SCHUMER. Let me ask Mr. Garcia a question. You say Rock Bottom has a 160 stores.

Mr. GARCIA. No, their gross last year was $164 million. They have 30 stores.

Mr. SCHUMER. Thirty stores.

Mr. GARCIA. In the New York metropolitan area.

Mr. SCHUMER. And all of them employ children by and large?

Mr. GARCIA. Yes.

Mr. SCHUMER. Have you ever seen a Federal inspector there?

Mr. GARCIA. No, I've never seen one, neither have I had one reported as having been there. We have a staff of five organizers that covers this area and no one has ever reported a Federal inspector. We had a State inspector that we brought into one of the stores.

Mr. SCHUMER. Right, that you brought in.

Mr. GARCIA. That's correct.

Mr. SCHUMER. New York State has a pretty good record, a better record than the fed, but you have never in the 30 stores—how many people are employed in those 30 stores?

Mr. GARCIA. We have about 1,000 people in the stores.

Mr. SCHUMER. OK, 1,000 people in the stores, and never once have you either seen or had reported to you by one of your members a Federal wages and hours division or anybody coming by to look into child labor violations?

Mr. GARCIA. That's correct.

Mr. SCHUMER. OK, do any of the others—I guess at the Quality Car Wash or at the Domino's Pizza was there ever any mention of anyone coming around to look and seeing what was going on before your accidents? Before your terrible happening, Ms. Boutros?

Mr. **Garvey**. No, I mean, not that I know of. I mean, if there was somebody coming around, they skipped over all the stuff that was wrong with the place.

Mr. **Schumer**. Right. Joyce, how about you? You've worked a long time.

Ms. **Bentzman**. Well, I know for a fact that the public health and sanitary department comes regularly to check on the sanitation. Every month at Subway a field representative comes to see if the stores is intact?

Mr. **Schumer**. A field representative from the Subway organization?

Ms. **Bentzman**. Right, corporation, exactly.

Mr. **Schumer**. Right.

Ms. **Bentzman**. And when there is something wrong with sanitation, they have about a week or 14 days to take care of it and then they come back.

Mr. **Schumer**. Right

Ms. **Bentzman**. But nothing in terms of safety—I don't think, I really couldn't say, but I know for a fact that they do come.

Mr. **Schumer**. Right. Matthew reported that there was someone 13—even 9 years old working in the car wash.

Ms. **Bentzman**. I was the youngest working there.

Mr. **Schumer**. Pardon? You were the youngest at 13?

Ms. **Bentzman**. Right.

Mr. **Schumer**. How about Mr. McFeely. Ms. Boutros. Any of the other witnesses, how young did it go?

Mr. **McFeely**. I have called up people on the phone in other stores. My store—it's in our contract that they're not supposed to hire under 16 years old, but I've called people up and they've said there were 15 year olds working in other stores.

Also, I did bring down a Federal inspector on the health issue and then I found out—I didn't even know, I was just worried about the cleanliness, but then we found out the bathroom doesn't have hot water and that was one of the violations they found. I've been complaining about a water cooler which was broken and rusted and didn't ever work for the 5 years. I was constantly complaining on that.

They also, on hours and wages, they tend to—they don't really break the hours on a Federal level, but on the State level they do.

Mr. **Schumer**. Right.

Mr. **McFeely**. They also tend to lock the doors at night and say you can't leave until the work is done.

Mr. **Schumer**. What? Say that again?

Mr. **McFeely**. They lock the doors at night, let's say at 10 o'clock, and we have inventory the next morning, and say we have to block down the store, fixing up the shelves, and——

Mr. **Schumer**. So, you don't have set hours there?

Mr. **McFeely**. We have set hours, but let's say I'm scheduled 5 to 10, and I had a case on Valentine's Day, one girl was told that if she left the store at 10 o'clock, and she demanded to leave, that the manager would take that as a provision that she was quitting.

Mr. **Schumer**. So she had to work until then?

Mr. **McFeely**. Well, she left, and I fought to get her reinstated, and I brought up to them that the New York State law says that you must have a half-hour break if you work 6 hours and she was scheduled 5 to 10 and they wanted to make her work 11 hours without a break and I said you're breaking the law and they dropped the idea of firing her.

Mr. SCHUMER. Right. In all of your jobs you were told that you were all paid by check, so in other words there was so little fear that someone would come check up, there was no cash payments or anything like that. You know, we have a vision of sweatshops and of people who are working in these little hideaway places that no one will ever find, they close down, they run away, but obviously in the case of Domino's Pizza and the case of Baskin-Robbins and the Subway, which are bigger chains, I guess Quality Car Wash is just a one shop operation, but in these—they just blithely went ahead and paid by check even if the checks would indicate that some violation of the law might be occurring. Ms. Boutros.

Ms. BOUTROS. With the exception that Jesse did receive his gas money each night in cash.

Mr. SCHUMER. In cash, OK. The other thing I was concerned that really sort of troubled me, Ms. Boutros, was this king of lates badge which I find—that bothered me, you had testified that your son—that they gave an award to the person who was the latest with the pizzas and you know, knowing how teenagers are so susceptible to peer group pressure, you know, I would imagine lots of them would do almost anything to avoid getting one of these badges. Was this a practice at this Domino's Pizza or is it a practice at many others as well? Domino's is a franchise you had mentioned, so each——

Ms. BOUTROS. Well, they have corporate stores and franchises.

Mr. SCHUMER. Oh, OK.

Ms. BOUTROS. But two-thirds of the stores are franchise stores and the franchise stores are pretty much allowed to operate as they wish. There's not too many binding agreements between them.

Mr. SCHUMER. So, you haven't, through your new organization that you founded and others, have you heard of instances like this in other shops where they sort of by putting the scarlet letter on someone's forehead if they don't get the pizza there in time?

Ms. BOUTROS. Not in such a physical way, and by that I mean they have this king of late badge at the store where my son worked and it was, to my knowledge——

Mr. SCHUMER. You'd have to wear it?

Ms. BOUTROS. Yes, they wore it, you know, I would assume some of them probably would shuck it off after they were awarded, but I mean the idea was still there and it was a humiliation type of thing. Other stores instead of king of lates badge—and these are what I'm hearing from ex-drivers and mangers—was that it was verbal ridicule, nothing that you could just see.

I'll tell you one thing that I discovered that really upset me a lot was the fact that here you've these young people working in the store, they're hustling to make these pizzas, too, and those children are young people who are also at risk, I believe. They were working with these huge hot ovens. Domino's, the reason they can bake their pizzas so much quicker is that they bake them at much higher temperatures. But anyway, some of these pizza makers have been known just to fool around on the time that it takes to make the pizza just to give the driver more of a—less time to deliver it within the 30-minute policy and these kids were just joking around and not really realizing the consequences of their actions.

Mr. SCHUMER. Mr. McFeely.

Mr. MCFEELY. Yes, hearing about these programs that are accompanying me make me to—like the lateness badge, hopefully people, the companies are listening to this testimony that they might want to try a difficult type of program where a company would want to get in touch with the schools, see if the kids' grades are dropping, get in touch with the parents, make sure that the kids are working, set up a program where there is involvement with the schools and the parents, voluntarily, and make a good image on child labor.

Mr. SCHUMER. I take it all of you agree that the penalties that you've heard about for these kinds of things are way too low, is that correct? Absolutely, well, we're aiming to change that.

OK, let me say to each of you, we very much appreciate your coming, particularly to Matthew and your mother having gone through what you have gone through, but you've impressed all of us with your resilience and your character. Your strength of character, and you've made some friends on this side of the table for whatever that's worth. And Ms. Boutros, you are one strong lady.

Ms. BOUTROS. Thank you.

Mr. SCHUMER. Thank you.

Mr. LANTOS. Thank you very much.

I want to express my appreciation to all of you, particularly the two mothers and to you, Matthew, because you have been the real victims of this preposterous practice and let me say again how much you have done to prevent this from happening in the future.

Thank you very much, all of you.

Before the Chair calls the next panel, without objection I'd like to place in the record submissions from the superintendent of public instruction, from Madison, WI, from the AFL-CIO, and from the National Safe Workplace Institute.

[See appendix.]

Mr. LANTOS. Our next panel will be Mr. William Brooks, Assistant Secretary of Labor for Employment Standards; Mr. Gerald Scannell, Assistant Secretary of Labor for OSHA; Mr. Bob Davis, Solicitor of the Department of Labor.

[Witnesses sworn.]

Mr. LANTOS. We are very pleased, gentlemen, to see all three of you. Mr. Scannell and I had a very comprehensive hearing not long ago on crane accidents in San Francisco. We appreciate his coming back. I understand you took the "red eye" from San Francisco to be here on this panel. I want you to know that we are very grateful to you for that.

Mr. SCANNELL. Thank you.

Mr. LANTOS. Mr. Brooks, this is your first appearance before this subcommittee, we welcome you, we look forward to working with you, and we're very pleased to have your legal counsel with you.

Mr. BROOKS. Thank you, Mr. Chairman.

Mr. LANTOS. We look forward to working with you. For the record the Chair would like to state that Secretary Dole had a longstanding prior engagement out of town, we fully appreciate her reasons for not being here at this hearing. We look forward to having her at a subsequent hearing.

Your prepared statement, gentlemen, will be entered in the record in its entirety. You may proceed in your own way and in whatever sequence you have worked out amongst yourselves.

STATEMENT OF WILLIAM C. BROOKS, ASSISTANT SECRETARY OF LABOR FOR EMPLOYMENT STANDARDS, ACCOMPANIED BY GERALD F. SCANNELL, ASSISTANT SECRETARY OF LABOR FOR OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, AND ROBERT P. DAVIS, SOLICITOR OF THE DEPARTMENT OF LABOR

Mr. Brooks. Thank you, Mr. Chairman.

I want to commend you for your leadership and keen interest in protecting the safety, health and general well-being of American children. I believe this hearing is further evidence of that commitment.

Secretary Dole and her senior management team at the Department of Labor look forward to working with you and the members of this subcommittee on this important issue.

I believe the Department's commitment is evidenced today by the attendance of my colleague, Assistant Secretary Gerry Scannell, of the Occupational Safety And Health Administration. We are working together on this difficult matter and are both willing to answer any questions you may have today.

Mr. Chairman, I am pleased to be here this morning to discuss a serious problem which is of great concern to this subcommittee, Secretary Dole, and myself.

As you know, Secretary Dole yesterday announced the Department's completion of a 3-day child labor strike force. More than 500 compliance officers nationwide conducted over 3,400 investigations uncovering about 7,000 minors illegally employed by almost 1,500 establishments.

We estimate that there will be more than $1.8 million in penalties imposed on violators. Final statistics will be available in the next several weeks. By that time our compliance officers will have completed the investigative work on almost all of these cases.

This is just the first of a series of strike forces that we intend to conduct. The Secretary and I want to send a clear message, we are getting tougher on law breakers.

Mr. Chairman, I know you would be particularly interested to know that we are actively working on improving our coordination with OSHA. Our field staff made several referrals to OSHA during the strike force. We expect additional referrals may be made as some of these investigations progress. We are planning further improvements in this area by formalizing a more effective system of sharing information with OSHA. This is already occurring in some regions by means, for example, of a recent important memorandum of understanding regarding the New York garment industry among ESA, OSHA, and the New York Department of Labor. As part of this emphasis, we are planning cross training of compliance staff so that OSHA officers will be alert to child labor violations and similarly so that our staff will pass along information about possible safety violations to OSHA. We are, after all, on the same team.

I must emphasize that the strike force is only one component of a comprehensive strategy that Secretary Dole announced several weeks ago. A strategy designed to send our message and to address the serious problem of child labor violations. Through this and other measures we are seeking to heighten public awareness, deter violations and increase compliance with the law.

Mr. Chairman, our goal is to get well ahead of and to reverse the trend toward increased child labor violations through tough enforcement, to make sure that violating the law is not acceptable as a cost of doing business.

The Secretary and I have three key objectives in this area. First, to ensure firm and fair enforcement of the Fair Labor Standards Act's restrictions on child labor, and public information, public awareness, and our enforcement promote compliance.

Second, to develop where necessary new regulations and enforcement policies to ensure that the Department is proactive on this issue.

Third, where the employment of youth is permissible, to ensure that it is safe, in full coordination and cooperation with OSHA.

Mr. Scannell and I are partners in this important matter. A partnership about which he'll comment.

Gerry.

Mr. SCANNELL. Mr. Chairman, Mr. Shays, I'd just like to tell you that Bill Brooks and I came to the Department of Labor about the same time and I think we have a very close relationship, a bond if you will. We both came from major corporations in this country, we both think they were outstanding corporations. Bill and I have chatted about safety in the work place over the past several months, but shortly after I was confirmed Bill mentioned to me about the hazardous work orders that he has in effect at ESA and how many of them were written in the late 1930's and how outdated they might be. He suggested with OSHA's expertise in standards writing that maybe I would be willing to share some of my standards writing staff to assist him in rewriting outdated hazardous work orders and I said I'd be delighted to do that.

He also suggested if it wouldn't be too much of a burden if I wouldn't sit on his Child Labor Advisory Committee, which I knew little of, but I've learned a little bit about that since then. I said I'd also be very delighted because I'm not only concerned about the hazards in the workplace facing adults, I'm concerned about the hazards facing children. I've really been quite surprised at what I've heard here today at this hearing and what Bill has passed on to me over the past several months.

We also have agreed to serve on an interdepartmental child labor task force which I have a member of my staff serving on trying to assist in this crucial issue.

As far back as 1985 there was a memorandum of understanding between ESA and OSHA in the area of fire works factories and referring one to the other as well as entrenching an excavation and in December 1988, somewhat of a pilot test in New York City in the OSHA region and in the ESA region where we agreed with a formal memorandum of understanding to refer cases back and forth of what OSHA might view in the workplace as a possible child labor violation and what ESA inspectors might view as a possible OSHA violation.

So, we have been exchanging information, but just recently after hearing some of the other stories that Bill had brought up at the Secretary's staff meeting, I said, Bill, I would like to join with you and have a national memorandum of understanding so that all of the OSHA regions would participate in this important endeavor in referring potential or believed child labor violations to ESA and I also asked Bill if he would have his compliance offices from ESA refer what they believe to be violations of the Occupational Safety And Health Act.

Mr. LANTOS. Thank you very much, Secretary Scannell.

Mr. BROOKS. We have developed a five-point strategy to better advance this goal in addressing child labor enforcement issues.

First, the Department has stiffened penalties for offenders. This is a part of a bigger picture at the Department, a heightened emphasis on tough enforcement, as evidenced by the Department's enforcement task force and an intensive 3-day enforcement conference at ESA in May 1990. Specifically, the Wage and Hour Division's internal procedures for assessing civil money penalties have been revised to provide larger penalties. These should markedly deter illegal employment of minors. We are already developing regulatory proposals to allow even heavier fines, especially for egregious offenders.

Second, we have established an interdepartmental task force to ensure that the Department's approach to formulating and enforcing our regulations is effective. The task force, which has begun its work, is chaired by the Employment Standards Administration and includes representatives of OSHA, the Solicitor of Labor and the Bureau of Labor Statistics. The task force will coordinate enforcement, research and policy development efforts. It will seek to identify and develop meaningful health and injury data essential to policy decisions. It will advise whether the hazardous occupation orders should continue to be reviewed one by one or whether a more global approach is feasible.

The present approach has no built-in flexibility to accommodate fast changing work place technology and conditions.

Third, we are about to propose regulatory changes to meet our immediate needs in the enforcement of the hazardous occupation orders. We are also examining by means of our task force the possibility of different regulatory approaches to ensure that our safety regulations for children are current and effective.

Fourth, we will determine in all cases involving serious illegal child labor whether we should seek court intervention in the form of preliminary and permanent injunctions.

Fifth, we are instituting more aggressive, rigorous child labor enforcement, including several nationwide strike force actions like the strike force we have just completed. That evidences our tougher enforcement. Combined with the campaign to heighten public awareness, these efforts should deter violations and increase compliance with the law. Our message should be clear, Mr. Chairman, we've gotten tough on violators, the cop is on the beat.

And on a personal note, Mr. Chairman, I'd just like to say that I spent about 16 years in the city of Detroit as chairman of the Boy

Scouts for the inner city and I was chairman of the board of the 7001 Training Employment Institute, a national organization dealing with young people, and spent a lot of time in school boards dealing with youngsters. When Secretary Dole asked me to join her, one of the things she emphasized and that turned me on was the fact that, Bill, you could probably make a difference if you come with me in some areas that are very serious and important to you, and that's why I'm really here. This is a serious issue for me, and my 6 months here have been about the business of spending an inordinate amount of my time, personally, in developing this strategy that we are embarking on.

So that, Mr. Chairman, concludes my summary remarks and I'll be happy to answer any questions you or members of the subcommittee may have.

Mr. LANTOS. Thank you very much, Secretary Brooks.

[The prepared statement of Mr. Brooks follows:]

STATEMENT OF
WILLIAM C. BROOKS
ASSISTANT SECRETARY FOR
EMPLOYMENT STANDARDS
BEFORE THE
EMPLOYMENT AND HOUSING SUBCOMMITTEE
OF THE COMMITTEE ON
GOVERNMENT OPERATIONS
UNITED STATES HOUSE OF REPRESENTATIVES

March 16, 1990

Mr. Chairman, I appreciate the opportunity to be here today to discuss child labor. Like you, Secretary Dole and I are deeply concerned about this issue. My purpose today is to describe the Department of Labor's strategy in addressing the employment of children in violation of our laws. It is a strategy that will, I believe, send an unmistakable message: that we have gotten tough on law-breakers.

My approach is to: (1) summarize the current framework of laws and regulations; (2) summarize what we know of the problem; (3) describe the Department's three basic objectives in dealing with the problem; and (4) explain the Department's five-point strategy to achieve those objectives.

The current framework of laws and regulations.

As you know, Mr. Chairman, child labor is a federal issue because the Fair Labor Standards Act (FLSA) includes provisions protecting children.

For non-farm labor, the basic rule is that there is a 16-year minimum age. There are two major exceptions. First, the Act permits work by 14- and 15- year olds if the work does not interfere with schooling, health, or general well-being. For 16-

and 17-year olds, employment is legal except where we find that an occupation is hazardous or detrimental to health or well-being. The Department over the years has made such findings for about 17 nonagricultural occupations.

The basic rule for farm labor is that children under 14 can work only outside of school hours, unless the children are employed by their parents or work on the family-owned farm. There are some exceptions to this rule, because the Department has determined that some farm work is too hazardous for children under 16. Children younger than 14 can sometimes work with parental consent and under other circumstances.

The Department enforces these and other fair labor standards through a nationwide force of about 1,000 Wage and Hour compliance officers.

The Department's efforts are complementary to the efforts of the States, most of which have their own fair labor standards provisions for children. For example, there may be occasions when the Federal FLSA does not apply because there is no "commerce" within the meaning of our statute. In such cases, a State's law may reach these situations.

The problem.

Labor undertaken by minors in violation of these child labor standards is, in the plainest possible terms, illegal and unacceptable. Secretary Dole and I believe that the Labor Department should prepare our future workforce -- our children -- for the 21st century. Our children will lead us there. They need to get there safe and educated.

What do we know about the problem? The main source of information is the Department's own enforcement record.

In 1985, our compliance force detected 9,836 illegally employed minors. In 1989, that number was 22,508 -- an increase of 128%. Over the same period, we almost tripled the fines that we imposed on law-breaking employers -- from $1,021,603 in 1985 to $2,768,755 in 1989.

Child labor violations are most prevalent, of course, in industries that employ the most kids. These tend to be the lower-skilled, lower paying service sector jobs in our economy. Examples run the gamut from groceries and convenience stores to fast food establishments, restaurants, movie theaters, retail shops, bakeries, and other enterprises.

What does this information tell us?

Mr. Chairman, I believe it tells us that the Department, as evidenced by its constantly improving record of enforcement, has done a good job responding to a growing problem. In fact, I think there is real unfairness when our enforcement numbers are quoted without credit, as if to suggest that child labor has surged to 22,508 while we have sat on the sidelines.

What has caused this growing problem?

It is not, as some would suggest, a return to the time of Charles Dickens. It would be easy to sensationalize the overall problem by concentrating on the occasional, graphic stories of tragically-abused child laborers.

But that does not present an accurate overall picture, and does not lead to an effective, coherent enforcement policy -- one that addresses the problem on all fronts from the tragic cases to less dramatic, but nonetheless harmful, child labor infractions.

We believe that the root causes of the problem are subtle economic and demographic trends.

On the economic side, the good news is that we have had continued growth in the number of jobs and a low unemployment rate for some time. But the bad news is that some employers cut legal corners in filling entry-level jobs with young children.

As to demographics, the post-war baby boom fueled the growth of our labor force in the 1970's and 1980's. That trend has reversed, and the pressure to hire very young workers will increase.

The trend in fact was evident in the 1980s.

There were 1.2 million fewer 16- and 17-year olds in 1989 than in 1981 (from 8.1 million to 6.9 million). There were also fewer 16- and 17-year olds working (from 2.9 million to 2.6 million), although the fraction of workers in this age category was higher (from 35.5% to 37.6%).

For 14- and 15-year olds the trends were similar but not exactly the same. There were 700,000 fewer 14- and 15-year olds in 1988 than in 1981 (from 7.3 to 6.6 million). There were fewer children in this category working (from 1.1 million to .9

million), and even the fraction of workers was down (from 14.6% to 13.7%).

These trends suggest economic incentives for employers to induce young workers into off-limits jobs (perhaps at higher rates of pay than they might enjoy elsewhere), and to work the smaller pool of 14- and 15-year olds for longer hours than are permissible.

This hypothesis explains the rise in hours-worked and hazardous occupation orders violations. It also motivates us to fashion our strategy so that we can counteract the basic forces which we think may drive the problem -- whether or not to hire kids in violation of the law. Simply put, our aim is to make it unacceptably costly to employ children in violation of the law.

The Department's objectives in dealing with the problem.

Our mission is to meet these troubling trends -- to get in front of the problem and to make violating the law much more than just a cost of doing business.

Accordingly, I announced early last month three key objectives in this area: First, to ensure firm and fair enforcement of the FLSA's restrictions on child labor, made visible through high-profile enforcement and public awareness; Second, to develop, where necessary, new regulations and enforcement policies to ensure that the Department is proactive on this issue. Third, when the employment of youth is permissible, to ensure that it is safe.

The Department's strategy to carry out these objectives.

The Department has a five-point strategy to carry out these objectives.

The Department's first initiative stiffens penalties for offenders. The Wage and Hour Division's internal procedures for assessing civil money penalties have been revised to require larger penalties. These should markedly deter illegal employment of minors.

In the past, we have assessed a maximum penalty of $1,000 -- the statutory limit per violation -- only once for each child found to be illegally employed, regardless of how many types of violations there were for each child and regardless of how often each occured. Under this revision of our internal procedures we will, as the Act permits, assess up to a maximum of $1,000 for each different type of violation for each child.

Let me explain this new assessment procedure. As an example, take a 15-year old child employed in a fast food restaurant. Assume that child worked on a school night after 7 p.m. in violation of the hours limitations and, as a part of his or her duties, operated a food processing machine, an activity which is prohibited for children under 16, as well as meat slicer, an activity which is prohibited for children under 18. Under our old penalty system, the employer would have been assessed $240. Under our new system there will be higher penalties for each infraction, cumulating to substantially higher overall fines. In this example the total penalty would be $1,250 -- more than five times the old penalty.

In addition, the new system will permit consideration of aggravating factors that can further increase the penalty, such as when the employer is a repeat offender of the child labor provisions, or when the employer has concealed illegal child labor. In recognition of the critical importance of accurate recordkeeping, we plan to assess a separate penalty where the employer has failed to keep the records required by the law. All in all, penalties will substantially increase -- typically by 60 to 300 percent. These increases will give our outstanding corps of compliance officers important enforcement tools to do their job even better.

The increased penalties I have discussed have already been implemented. They did not require new regulations or legislation. But the Secretary regards this step as the beginning, not the end of our overall action plan on penalties.

We are, for example, starting to develop regulatory proposals to allow very large fines for especially egregious offenders.

The Secretary has directed me to follow carefully the impact of the new penalties we have adopted and are considering. Moreover, we will if warranted take a hard look at whether the present statutory maximum penalty of $1,000 per violation should be increased.

As a second initiative, I have, at the Secretary's direction, established an intradepartmental task force to ensure that the Department's approach to formulating and enforcing our regulations is effective. The task force, which has begun its work, is chaired by the Employment Standards Administration (ESA), and includes representatives of the Occupational Safety and Health Administration, the Solicitor of Labor, the Bureau of Labor Statistics and others.

The task force will coordinate information sharing, research and policy development efforts. It will seek to identify and develop meaningful health and injury data essential to policy decisions. It will advise whether the hazardous occupations orders should continue to be reviewed one by one, or whether a more generic approach is feasible. The present approach may not be as flexible as we want it to be, to accommodate fast-changing workplace technology and conditions.

And, more generally, the Department will seek to operate as effectively as possible in addressing this sometimes complicated field. Indeed, establishing coverage and making a case under the FLSA can be a difficult, painstaking process.

To illustrate this point, let me describe a case that literally hits close to home -- and work -- for a high-ranking ESA official. This individual opened the door of his home one evening, after 8:00 p.m. on a school night and found a youngster who looked about 10 or 11 years old selling boxes of candy. We found that the boy's employer was an individual "distributor" whose inventory was in his closet. Could there be an easier case to deal with than one in which a high-level government official responsible for child labor enforcement opens the door to find an employer violating the Federal child labor law?

Well, it was far from easy. Establishing coverage and making the case took almost two weeks of compliance officer time. For example, even to find the children, our officers eventually had to resort to school authorities. We did so after observing the employer picking up the children after school.

When you multiply such cases by the hundreds, perhaps thousands, it becomes clear that we have our work cut out for us.

We are keenly aware that FLSA enforcement in general, and child labor enforcement in particular, also face special challenges in dealing with the recent immigrant population and with the agricultural sector. For example, family farms or other family businesses, where many injuries occur, are exempt from the FLSA child labor provisions when the owners employ their own children. And language barriers often have to be overcome in enforcing child labor laws among legal or illegal immigrants.

The _third_ initiative the Secretary has directed me to undertake is to ensure that when kids can work legally, it is safe and healthy. While part of this effort will await the recommendations of the task force I have described, I am moving forward with regulatory proposals dealing with Hazardous Occupation Orders No. 10, to clarify that meat slicers in restaurants are covered by the Order; No. 2, to remove the existing exemption for 16- and 17-year old school bus drivers; and No. 12, to broaden the prohibition on minors using paper-products machinery.

As part of our longer-term strategy, we are examining -- by means of the task force -- different regulatory approaches to ensure that our safety regulations are current and effective; and, if needed propose changes to the FLSA.

As we move forward, we will work with public and private organizations and individuals, including the Child Labor Advisory Committee created by the Department, whose time and efforts are much appreciated.

As a fourth major initiative, the Secretary and I have directed our Wage and Hour staff, working with attorneys in the Office of the Solicitor, to determine, in cases involving serious illegal child labor, whether we should seek court intervention in the form of preliminary and permanent injunctions.

The Department will consider litigation where there is clear evidence of employer recidivism, employer unwillingness to take the steps necessary to assure future compliance with the FLSA, or a particularly egregious violation.

The child labor injunction will be an important weapon for us -- one that we are going to be utilizing more effectively.

The fifth initiative is more aggressive and very rigorous child labor enforcement, including several nationwide strike force actions within the next six months.

These five initiatives are being taken within a broader overall restructuring and renewal of ESA enforcement and management. On February 23 of this year, I announced a restructuring of the relationship of our field offices to our national office, making regional program heads directly accountable to national program heads. My aim here is decentralization. When I accepted this job, Secretary Dole asked me to bring business principles to the administration of the Department's largest agency, ESA. I took her at her word. This new structure will establish clearer lines of authority and communication, and empower those responsible for enforcing the laws with adequate authority and resources to do so. Under the Secretary's overall leadership to strengthen DOL enforcement, ESA will also hold a national conference on enforcement in May. There, we will look at how the realities of enforcement should better interrelate to setting of national enforcement policy.

Mr. Chairman, that concludes my prepared remarks. I will be happy to answer any questions you or the members of the Subcommittee may have.

Mr. **Lantos**. May I ask, Mr. Davis, do you have an opening statement? We'll be delighted to hear from you, sir.

Mr. **Davis**. I actually, Mr. Chairman, do not have an opening statement. I understand the committee has various interests and I am prepared to address those as the Chair wills.

Mr. **Lantos**. Very good. Well, let me first thank all three of you for being here. Let me begin by dealing with some newspaper speculation as to the timing of the sweep. There have been a number of comments. Some cynics have suspected that the timing of this highly visible nationwide sweep deploying 500 inspectors, half of your staff, to dealing with child labor violations just the week of this hearing may have had something to do with the timing of this hearing.

I fully accept Secretary Dole's statement that there was no deliberate attempt to time the sweep, but for the record I would like whichever of you to comment on this.

Mr. **Brooks**. Yes, Mr. Chairman, it was purely coincidental. As I indicated, I've been working on this strategy for some 6 months. We had this thing laid out and we're involved with over 500 compliance officers in some more than 300 locations, this is a big machine to get going, it takes a lot of planning, so the fact that we're here today had absolutely nothing to do with the timing.

Mr. **Lantos**. For the record, Mr. Secretary, I accept the statement and I want to commend Secretary Dole and you and the rest of you for undertaking this sweep. I think it's obvious that with whatever increases in numbers of inspectors we may get, whatever increases of penalties we may get, a very large share of the enforcement mechanism, particularly as it relates to larger companies, will be adverse publicity.

A company which spends vast amounts of money attempting to sculpt a favorable public image for itself certainly does not enjoy devastating public condemnation because of its child labor practices.

Now, I fully understand that the companies that turned up on your lists as having violated child labor law run the gamut. How many companies were inspected by you, Mr. Secretary, and your people?

Mr. **Brooks**. There were 3,439 investigations.

Mr. **Lantos**. 3,439 investigations. Just as a ballpark, Mr. Secretary, how many of those would you call small company investigations? Small business investigations? Half? One quarter? Two-thirds?

Mr. **Brooks**. Well, I think we may have a definitional problem because———

Mr. **Lantos**. Well, please define for me anyway you choose.

Mr. **Brooks**. You may call—well, a fast food chain, we may have gone into of them and that to me may be a small company, because it's———

Mr. **Lantos**. Well, I will consider chain investigations of well known enterprises as a major company, even though obviously the individual work site may be small.

Mr. **Brooks**. Yes, but in this investigation we may have had a crew in Atlanta someplace who looked at a chain store that was independent of the chain, it was the location, and they might have looked at one in Idaho, but I would construe most of them to be small businesses.

Mr. **Lantos**. Well, I would like to offer you a different definition.

Mr. **Brooks**. OK.

Mr. **Lantos**. We had a tragic testimony a few minutes ago, and you listened to it——

Mr. **Brooks**. Yes I did.

Mr. **Lantos**. Of a single car wash where a young man at age 13 was employed and lost his leg. That clearly is a small business. It is not part of a chain, it's an individual entrepreneur, it may have half a dozen employees. Now, I understand that large chains in the fast food business have company owned stores and stores which are franchised, but one of the questions I suspect the subcommittee will have to ask sooner or later is whether part of obtaining a franchise may not be an obligation to comply with all labor regulations. I don't think that a fast food chain can hide behind the shield that this particular store is not company owned, because the chain, as I understand it, has the right to revoke the franchise for a whole lot of reasons. Well, they certainly ought to be willing to revoke the franchise if child labor laws are violated. Would you agree with that?

Mr. **Brooks**. Let me say in response to your earlier question that we are still studying the data really to——

Mr. **Lantos**. I understand that, but I'm asking a general question.

Mr. **Brooks**. Well, I think that's a fair situation.

Mr. **Lantos**. Well, I'm not asking you whether it's a fair situation. Do you agree with my statement?

Mr. **Brooks**. That the franchise——

Mr. **Lantos**. I'd be glad to repeat, Secretary Books. You take a fast food chain, which hypothetically let us assume has 500 company owned outlets, and 500 noncompany owned outlets. Now, when I go in and buy a hamburger or a pizza, I don't know whether it's company owned or is owned by somebody in the local community, or some other investor. Is it reasonable to hold the chain itself responsible for violations of child labor laws? Is it reasonable to expect the chain to have compliance with child labor laws be one of the conditions of maintaining the franchise? I suspect that if I have one of these franchises, which I don't, but if I did and I kept the store in such an unattractive and unappetizing and unsanitary condition that it would be clearly noticeable, then it would reflect very negatively on the name of the chain, and the chain under those circumstances would have the right to take away my franchise.

Mr. **Brooks**. But this is a matter of contract for the courts, though.

Mr. **Lantos**. I am not questioning that. My question is would you favor chains being responsible for having in their contracts compliance with child labor laws by the franchisee?

Mr. **Brooks**. I would rather deal strictly with the location that we're dealing with.

Mr. **Lantos**. I'm sorry, I don't understand that.

Mr. **Brooks**. I would deal just with that particular operation rather than with the entire chain. If that store has violations of law, I think we should deal with that particular store or that res-

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taurant and if they were violating willfully and continuously, then it's up to us, I think, to bring appropriate action against that particular violator of the child labor laws.

Mr. **Lantos**. Well, you surely don't have the staff. I mean, you know, this spectacular public relations extravaganza that we were treated to the last 3 days cannot go on very long because that means your whole Department will be dealing with this one——

Mr. **Brooks**. Could——

Mr. **Lantos**. Let me finish, Mr. Brooks. You need a whole panoply of weapons at your disposal to see to it that child labor laws are obeyed. You are not going to have enough inspectors ever to go into every business enterprise and see whether child labor laws are violated. So, you need other devices, many more than you now have. Is it your testimony, and I'm merely asking you, that the chain itself should have no responsibility whatsoever, none, if one of their outlets not owned by them violates child labor laws? Would you like to consult with your attorney?

Mr. **Brooks**. Yes.

Mr. **Davis**. Mr. Chairman, the reason that I'm hesitant in advising Mr. Brooks or to answer your question or taking a stab at it myself is that I frankly don't know sitting here before the committee what our statutory authority is today potentially to reach chains. We may have that authority and I must confess I'm not sufficiently familiar with the authority on that point.

Mr. **Lantos**. Mr. Davis, that's a very fair answer. My question is: Assuming that you don't have statutory authority, will you recommend to Secretary Dole that she seek such statutory authority?

Mr. **Davis**. Mr. Chairman, speaking as the Solicitor, I really don't believe that I can give the subcommittee a well-advised answer at this point. It is a novel question to me and I would hesitate to give the subcommittee a wrong impression. I will undertake to consider that and come back to the subcommittee. I'm just hesitant to speak too quickly.

Mr. **Lantos**. Well, that's fair enough. Let me tell you as a nonlawyer what my judgement is. These franchises are very valuable things. Very valuable things. In order to get such a franchise the franchisee must agree to a whole range of conditions, doesn't he or she? Is that correct?

Mr. **Davis**. I have never reviewed a franchise agreement, but that's generally my understanding.

Mr. **Lantos**. Well, that's generally my understanding. Would it not be reasonable to include in what must be an extremely complex document, in which the franchisee agrees to have so many little packets of mustard in a certain place to qualify, that child labor laws are one of the relevant items that the chain is interested in having observed.

Mr. **Davis**. But Mr. Chairman I——

Mr. **Lantos**. Can you give a layman's answer to that, Mr. Solicitor?

Mr. **Davis**. Unfortunately, Mr. Chairman, whenever I try to divorce my status as a member of the public and my official status——

Mr. **Lantos**. OK——

Mr. **Davis**. Unfortunately, the regulated public doesn't make the difference.

Mr. **Lantos**. OK. Mr. Brooks, you have a comment?

Mr. **Brooks**. Yes, but I think this whole sweep was about raising the consciousness of employers in this country that we are serious about this whole issue of child labor and that we're going to enforce the law. I agree with you totally that publicity was one of the big elements for us, to heighten the awareness not only of employers, but of educators, of parents, and of children themselves. I could give a number of examples of where we found some serious violations which may be helpful. We had a chain of donut establishments found in repeated violation of hours worked restrictions——

Mr. **Lantos**. I'm sorry, a chain of——

Mr. **Brooks**. Seven donut——

Mr. **Lantos**. Seven donut shops.

Mr. **Brooks**. That's right.

Mr. **Lantos**. What is the name of the company?

Mr. **Brooks**. I'm not at liberty to——

Mr. **Lantos**. You are directed to answer the question, Mr. Brooks. You are directed to answer the question.

Mr. **Davis**. Mr. Chairman, if I can refer this to counsel.

Mr. **Lantos**. You may.

Mr. **Davis**. First of all, Mr. Chairman, thank you and the subcommittee for allowing me to come with Mr. Brooks today.

Mr. **Lantos**. We're delighted to have you.

Mr. **Davis**. It was on short notice. I've always looked forward to the opportunity to testify before you, Mr. Chairman.

Mr. **Lantos**. Masochism is alive and well. [Laughter.]

Mr. **Davis**. Mr. Chairman, we have tried to be as responsive as possible to the committee when you made your interest in discovering the names of the companies that we are pursuing. After reflection and frankly some scrambling around and trying to call regional offices who in turn called field offices because the information has not come in yet, we have assembled a list of names that I am prepared, Mr. Chairman, to turn over to the subcommittee as if it had been subpoenaed by the subcommittee and we are complying with such a subpoena. Consistent with that practice, Mr. Chairman, we would ask that the subcommittee hold those names to be confidential. Certainly the subcommittee has its full powers, I would not even consider to comment upon those powers, but I would reiterate our request that the subcommittee hold those names confidential.

Mr. Chairman, if I may take time for two more comments, I have copies of the list here which I'll be glad to send up. Mr. Chairman, I would just like to make two brief comments about why we request that the names be held confidential. These are open investigations. We have not issued citations. Indeed, we are doing very fundamental analysis right now. Let me give you just one brief example to make the point. In order to establish a child labor violation we must verify the birthdate of the child. We have to do that through public records. We are literally in the process of doing that. We will then take those cases promptly through the process of determining whether violations in fact, upon supervisory review, occurred, the closing conference with the employer, the assessment, and an issuance of the citation. At the point that we issue a citation it is my understanding that that is regarded as public record information.

I will close only on this, Mr. Chairman, to say that it really is to promote our investigations that we ask that you keep names confidential during this precitation process. I understand the subcommittee's interest in child labor and concern about child labor. I hope we can promote that but still in this precitation period hold the names confidential.

Mr. BROOKS. And further, Mr. Chairman——

Mr. LANTOS. Go ahead.

Mr. BROOKS. It's normally a 60- to 90-day process to do some of these. We would commit to really going out and getting some of these preliminarily done much quicker than that.

Mr. LANTOS. Well, let me pursue the matter a bit. In your press conference with Secretary Dole, I believe, you indicated that you found 7,000 violations, is that correct?

Mr. BROOKS. 7,000 minors who were allegedly, illegally working.

Mr. LANTOS. 7,000 alleged violations.

Mr. BROOKS. That's correct.

Mr. LANTOS. Without mentioning any names, are there some companies which appear as multiple violators on that list?

Mr. BROOKS. I can't answer that because all I received yesterday morning was a summary report with just numbers, so I can't answer that. I think this data was coming in from 10 different regions to us late at night and all we were doing was tabulating the results and I, for one, was not dealing at all with the names of the companies.

Mr. LANTOS. Now, I take it that matters which you have brought before the public with names, you have no such constraints about, is that correct?

Mr. BROOKS. If we have reached the citation point, that's correct, because——

Mr. LANTOS. What fast food chains have you cited thus far?

Mr. BROOKS. Obviously Burger King is one that's been in the press.

Mr. LANTOS. Well, let's talk about Burger King a bit.

Mr. BROOKS. OK.

Mr. LANTOS. How many Burger King facilities were inspected by your people? Approximately, if you don't have the exact figure.

Mr. BROOKS. Oh, let me see. I think I have the States here that were involved.

Mr. DAVIS. Mr. Chairman, if I may dive into this.

Mr. LANTOS. Please.

Mr. DAVIS. We have in the meantime been consulting with staff and apparently the materials we have with us today do not contain the number of establishments investigated.

Mr. LANTOS. Well, while we are talking about things, you can have one of your staff call your office so we deal with reality.

Mr. DAVIS. Absolutely, Mr. Chairman.

Mr. LANTOS. I'd appreciate it. At the same time, what other major multioutlet business have you cited publicly?

Mr. BROOKS. We have cited no other multi businesses publicly in my tenure. In child labor?

Mr. LANTOS. Yes, in child labor.

Mr. DAVIS. Mr. Chairman, again, I think the reason that both Mr. Brooks and I are hesitating is we were so focused on the investigations literally just completed that at least I personally am remiss for having failed to go back to earlier times. I would believe or surmise that we have cited other fast food restaurants that are parts of chains and would undertake to supply that for the record, but I cannot testify that I know that we have, Mr. Chairman.

Mr. LANTOS. Let me say, gentlemen, that I will honor your request with this proviso: Clearly, if a large chain with say 500 outlets has one or two of those outlets owned not by itself but by independent operators, and they are found to have violated child labor laws, pending the resolution of our earlier dialog as to whether the chain itself should have some policing powers with respect to that, because the chain is far better qualified to do the job than you are, because they inspect those stores for a hundred things, well, I don't want them to be inspected only for the cleanliness of napkins and the adequacy of mustard supplies, but also whether there are 13 year olds working there. That's not an unreasonable request.

But pending that becoming your procedure, your policy, part of statute, it makes sense to me that no adverse publicity should hit a large chain just because there is a rotten apple in a small town that, unbeknownst to the company, is employing a 12 year old in a dangerous occupation. But if there is a pattern and particularly if there are company owned stores which perpetrate that pattern, then I think adverse publicity is infinitely more effective, both as penalty for the perpetrator and as deterrent to others, than any other financial penalty we can devise.

So, let's deal with the Burger King case. Tell us as much about the Burger King case, any of you gentlemen, as you now can prior to getting the information from your head office.

Mr. Scannell.

Mr. SCANNELL. Mr. Chairman, I'm not going to talk about the Burger King case, but I'd just like to comment on the publicity.

Mr. LANTOS. Please talk into the mike.

Mr. SCANNELL. I'd like to just talk about the publicity. We in OSHA have found in fact that where we have these egregious cases, Mr. Chairman, the large penalties, especially with a major corporation, you are correct, they would rather pay the penalty and completely and not have their name in the newspaper. Well, I think just part of the record when we allege violations and propose penalties to be forthright and up front we do release news releases and it is part of a strategy to heighten the awareness in our Nation of the issue of violations of occupational safety and health regulations, and I believe it is a very effective way of communicating to the Nation that we are serious about asking employers to come into compliance with the occupational safety and health regulations prior to OSHA compliance officers arriving at the scene. Publicity is a very effective way, sir.

Mr. LANTOS. I couldn't agree with you more. As a matter, you may or may not know this, probably the culture of OSHA has already informed you of this, that your predecessor at one of the public hearings we had here was talking in generic terms about companies and I directed him to answer the question of what specific companies we are talking about. We had some other legal advice at the moment and there was quite a bit of consultation and then the names were revealed. There's no doubt in my mind that revealing the names is the most effective deterrent tool we have.

Now, let's go back to the Burger King case, Mr. Brooks.

Mr. **Brooks**. OK, on March 9, of this year the Department of Labor filed a suit in the Federal district in Miami, FL. The suit alleges that Burger King repeatedly violated the child labor provisions of the Fair Labor Standards Act since at least September 12, 1986, by employing minors under the age——

Mr. **Lantos**. September 6——

Mr. **Brooks**. September 12, 1986.

Mr. **Lantos**. September 12——

Mr. **Brooks**. 1986.

Mr. **Lantos**. 1986, and when you issued the citation they were still violating?

Mr. **Brooks**. This injunction, yes.

Mr. **Lantos**. This injunction.

Mr. **Brooks**. Yes.

Mr. **Lantos**. So, for how long was the violation or violations going on?

Mr. **Brooks**. At least back to September 12, 1986.

Mr. **Lantos**. So, it was a period of 2 years.

Mr. **Brooks**. Well, in this case it was up until 1990.

Mr. **Lantos**. So, it's more than 3 years, 4 years.

Mr. **Brooks**. Four years. Three and a half years.

Mr. **Lantos**. And when you say repeated you mean how many instances?

Mr. **Brooks**. I am not aware, I don't have that information.

Mr. **Davis**. Mr. Chairman, I have been advised by staff, as the hearing has proceeded, that at this point there are apparently 42 Burger King establishments that are subject of the lawsuit.

Mr. **Lantos**. Would you consider that a pattern of violations, Mr. Davis?

Mr. **Davis**. Mr. Chairman, I am not personally sufficiently familiar with the case to draw that conclusion. I'm just not prepared on it, because I, for example, I don't know what the total size of Burger King is, how many locations they have, how they managed in terms of regional structure or the like, I just don't know.

Mr. **Lantos**. Go ahead, Mr. Brooks.

Mr. **Brooks**. As Mr. Davis indicated, there are 42 locations, and there are establishments in Florida, Illinois, Louisiana, Maryland, Massachusetts, Michigan, New York, North Carolina, and elsewhere in the United States, and basically the Labor Department is seeking a judgement permanently enjoining the restaurant chain from future child labor violations at all of its locations in the United States.

Mr. **Lantos**. Now, again for the record, I strongly support Secretary Dole's sweep action this past week because I agree with all of you gentlemen, I think you all have stated it, that heightening public awareness is one of our best tools, but it's obvious to all of us that most of these 500 inspectors will go back to their own regular jobs, and if Congressman Pease's testimony is still the practice, and I see no reason to assume that it isn't, only about 4 percent of the inspectors have this as their prime responsibility, or on a time equivalency basis 4 percent of inspector time is devoted to child labor cases, that would mean 40 full-time individuals or some multiple on a part-time basis in the 50 States, and this clearly is ludicrously and pathetically inadequate, because unless you will keep all of these people on the job of going after child labor cases, the conclusion will quickly be drawn that this was a one-shot deal with no follow through because people go back to their regular assignments. I don't anticipate an increase of tenfold or twelvefold in the number of inspectors requested.

So, my question is, if there is no dramatic readjustment—well, let me rephrase it. If there is a dramatic readjustment of resources contemplated, what other areas will be short changed?

Mr. BROOKS. I would like to respond to that in a number of ways. No. 1, and I personally believe that we have adequate resources to deal with this problem at this time, and I'm not willing to——

Mr. LANTOS. You'll be held to that statement, Mr. Brooks.

Mr. BROOKS. Right, and I'm not willing to ask for any more until I've made an assessment that we have done everything we can to deal with this problem, and at that point I will not be a bit bashful about asking for more resources. OK, No. 1——

Mr. LANTOS. So let me be sure for the record. Your testimony, Secretary Brooks, that the equivalent of 40 full-time inspectors——

Mr. BROOKS. I disagree with that, I don't agree with that.

Mr. LANTOS. Well, that's the Government Accounting Office figure. So, do we have anybody here from GAO? Would the GAO representative please come up to the table?

Mr. BROOKS. Today was the first day I've ever heard that number.

Mr. LANTOS. Well, you should read the GAO study on that, Mr. Brooks, because we did.

Will you please state your name, sir?

Mr. FRAZIER. My name is Franklin Frazier, and I'm with the General Accounting Office.

Mr. LANTOS. What is your position with the GAO?

Mr. FRAZIER. I'm the director for the education and employment issues.

Mr. LANTOS. We're delighted to have you. If you'll raise your right hand.

[Witness sworn.]

Mr. LANTOS. Can you very briefly advise us of the nature of the study GAO undertook at the request of Congress?

Mr. FRAZIER. Mr. Chairman, we have done a number of studies at the request of Congress. We did some work for Congressman Schumer, we are currently doing some work for Congressman Pease, and we came prepared to testify today on the increase in child labor violations.

Mr. LANTOS. Congressman Pease testified this morning, and I have his testimony in my hand, I suspect we'll find the statement, page 2 of his testimony, we'll give you a copy—send down a copy to him——

Mr. FRAZIER. I am familiar with that, sir.

Mr. LANTOS. You're familiar with that. Let me read it for the benefit of Secretary Brooks and others who may not be familiar with it.

"There are fewer than 1,000 Labor Department compliance officers nationwide to enforce existing law. These are the same strapped civil servants who enforce all provisions of the Fair Labor Standards Act, including wage and hour violations for all adult workers. The Government Accounting Office has told me—" that's Congressman Pease—"that typically 4 percent of their enforcement activities are devoted to child labor."

Is that an accurate statement, sir?

Mr. FRAZIER. Mr. Chairman, that is a figure that we got from the Department. We took a look——

Mr. LANTOS. The Department of Labor.

Mr. FRAZIER. The Department of Labor, that is correct. We took a look at the total amount of time devoted to enforcement activities and they are spending between 4 and 5 percent of that amount of time enforcing child labor activities.

Mr. LANTOS. Thank you very much, sir.

Secretary Brooks, the figures apparently come from your own Department.

Mr. BROOKS. Yes, I guess I quarrel with the calculations. The way it works is we have——

Mr. LANTOS. Well, I have no objections to your quarreling with the calculations, but you should have quarreled with the calculations before the Department of Labor supplied the Government Accounting Office, which is the investigative arm of the Congress, with these figures. Congressman Pease didn't invent these figures, nor did anybody else, these were figures supplied by the Department of Labor to the Government Accounting Office.

Mr. BROOKS. Yes, I understand that. I still have a difference with how they were calculated. How did he calculate 4 percent? Because what happens is the compliance officers, 1,000 of them, they're out—every time they go out on a compliance check, no matter what it is, if it is minimum wage check, if it's an overtime problem, Davis Bacon, they are always looking for child labor. Every one of them looks for child labor every time they go out on an investigation. So, I think it's virtually impossible to come up with a percentage of time that they're spending.

Now, in a lot of cases if we only look at times when they find a violation, I think we have an incurrent calculation of numbers, and I think that's——

Mr. LANTOS. Now let me tell you why you're wrong. Why you are dead wrong.

Mr. BROOKS. OK.

Mr. LANTOS. Apart from the fact that these are figures provided by your own Department to a duly constituted agency of Government, the investigative arm of the Congress. The fact is that in large numbers of occupations there is no child labor.

Mr. BROOKS. That's right.

Mr. LANTOS. Yet you have inspectors going out fulltime and your testimony is that they're always looking for child labor, where in a steel mill they're not going to find child labor.

Mr. BROOKS. That's correct.

Mr. **Lantos**. So, if you have a 100 inspectors or 50 inspectors in steel mills, or automobile factories, those people are not looking for child labor, that's just not true.

Mr. **Brooks**. I understand.

Mr. **Lantos**. The only people who may be looking for child labor violations are people who are inspecting facilities where the practice typically is to occasionally have child labor. When you go to most of American business they are incapable of dealing with 14 and 15 year olds because the qualifications and the requirements are palpably such that 14 year olds or 15 year olds cannot perform those jobs.

So, my hunch is that whoever gave the GAO the 4 percent figure is far more likely to be accurate than you are because your statement on the face of it cannot be accurate. Most of the inspectors are inspecting in facilities that by their very nature are not conducive to the employment of child labor.

Mr. **Brooks**. I would like to first review the data.

Mr. **Lantos**. Do you agree with my statement.

Mr. **Brooks**. I agree with your statement that——

Mr. **Lantos**. So you want to withdraw your statement that all the inspectors are always looking for child labor violations.

Mr. **Brooks**. In the places you described, an automobile plant obviously if they looked they're not going to be there.

Mr. **Lantos**. How about a steel mill?

Mr. **Brooks**. They're not going to be there either.

Mr. **Lantos**. How about a chemical plant?

Mr. **Brooks**. You're right.

Mr. **Lantos**. How about—Hewlett Packard? How about IBM? Are you worried about IBM using child labor?

Mr. **Brooks**. Not at all.

Mr. **Lantos**. Nor am I. So, the fact is that a very large segment of American business is just not affected by what we are dealing with.

Mr. **Brooks**. That's correct, but could I go on to the other couple of points though——

Mr. **Lantos**. Please.

Mr. **Brooks**. That I think will show that we are on a path where we're not necessarily needing additional resources at this time. No. 1, I have recently had a reorganization where we took out a whole layer of management in the field so that we could apply more direct communication and more direction to our people in the field, and pay more attention to enforcement. I think another issue that I feel very strongly about is this whole issue of quality versus quantity. I think we spend too much time worrying about the quantity of numbers and that we should be worrying more about quality of the investigations and quality of——

Mr. **Lantos**. What is the relevance of that with respect to the young man who lost his leg?

Mr. **Brooks**. Because if we do a better quality job and we get out in the front of this trend, we will prevent those kind of things from happening.

Mr. **Lantos**. Well, the problem is that facility was never inspected. He testified, there was nobody ever there and there's no counter testimony from the Department of Labor that that car wash was inspected.

Mr. **Brooks**. But Mr. Chairman, in terms of dealing with the resources to attack this problem, we have to, I think, look at the way we count things, the way we do things differently. We have to definitely become more effective. I think this sweep that we had for the last 3 days——

Mr. **Lantos**. That's a phrase.

Mr. **Brooks**. That's not the last one, though, that's not the last sweep. Once we have analyzed the data and pinpointed the regions and identified where violations were found, we will be back out there. We do need to obtain more data as I heard I think it was Congressman Pease this morning indicate that we really don't have enough data. One of the things we have done is establish a task force inside the Department of Labor which brought in the Bureau of Labor Statistics to make sure that we get a data base that makes sense so we can understand it, and that's one of the things we're going to do with the data from this last 3 days.

Now, we will be out there again with another sweep. I mean, this is not the last one. I think as we go back and continuously find out who is doing what I think people will start to understand that the cop is on the beat and that it's going to be more than just the cost of doing business.

We have also just changed the way that we compute our penalties. Formerly we computed them at $1,000 per child; now it's $1,000 per violation, which could be two or three on a child. We are considering regulatory changes that perhaps will even give us more ammunition in that area. And, if after we do all of these things and use all of the tools that are available to us—see, I'm not satisfied we've used all of the tools that are available to us to fight this problem yet, and at the point that we have done that I would be willing then to say perhaps we need to go for some legislative relief to perhaps raise that $1,000 limit, but I think we shouldn't jump to that point until we have utilized all of the tools at our disposal, and utilized our resources.

Mr. **Lantos**. Who is standing in the way of your using all of the tools at your disposal?

Mr. **Brooks**. We have a strategy, we're doings things ourselves, right now. You saw that this week, the start of it.

Mr. **Lantos**. Mr. Davis.

Mr. **Davis**. Mr. Chairman, if I could add only one small point to Mr. Brooks', which is that I really think the point that's been discussed, Mr. Chairman, by you this morning, by Mr. Brooks, Mr. Scannell hit it from the OSHA perspective, the fact the public attention is being focused on this issue and our efforts to address the issue, I'm quite convinced, are going to bring more employers into compliance. I understand that Secretary Dole received apparently late yesterday, I have not seen the letter myself, a letter from the chairman of Grand Metropolitan, the owner of Burger King, indicating that they want to work with the Department to resolve these problems and to comply with the law, and if we can produce that kind of effort to have companies coming to us to say "we want to comply, we want to deal with our problems," we can get a big bang for the buck in terms of getting people to focus on these problems and take care of them.

Mr. SCANNELL. Mr. Chairman, Mr. Brooks has the same problem I have had, that, you know, you've questioned me and we've discussed this, the resources versus getting to those employer establishments that need our attention, and in working with Mr. Brooks on this strategy I'll just repeat the publicity is probably the most effective thing in bringing corporate America to comply with not only with ESA standards but OSHA standards, and the analyzing the data that he's going to get. So, after the sweep they know the establishments, they know the SIC codes to focus the attention of those compliance offices, rather than worrying about IBM as you say. So, I strongly believe that the publicity is certainly going to bring many many of those organizations around and then being able to focus better on the SIC codes, those establishments, that if there is a pattern that they can get to.

Mr. BROOKS. We really want to find out who the bad actors are and deal with them and make sure that they're coming into compliance.

Mr. LANTOS. But this is not a new issue. I mean, we have had the laws on the books for decades. I mean, you may be new to this job, Mr. Brooks, you have been on the job 6 months, but child labor violations have been going on for decades. So, you're not bringing anything new to this. I mean, the Department has been there, it's been headed by people, there was somebody in your job before you, this is not a new discovery.

Mr. BROOKS. I think——

Mr. LANTOS. This is not like independence for Lithuania where we rejoice, it's a new phenomenon; we're talking about an ongoing social problem.

Mr. BROOKS. I think Congressman Pease——

Mr. LANTOS. So your basic approach that you want to do it more efficiently and more effectively and quality versus quantity, that's just rhetoric. The Department has been charged with this responsibility for decades. This is not a new issue, and you will not be able to portray it as a new issue.

Let me ask another question.

You wanted to make a comment? Did I cut you off?

Mr. BROOKS. I wanted to say, Congressman Pease in his testimony this morning indicated that this problem has been one that people have not recognized for a number of years. It's only recently, I think, the last couple of years when the numbers started moving up from 9,000 to 25,000 a lot of people recognized the problems there but I think it became really smack in front of people that we have a problem in this country.

Mr. LANTOS. I don't agree with you at all. I think the 25,000 figure is still just the tip of the iceberg. Lots of people have recognized this. This poor woman whose child was killed with this insane 30-minute delivery promotion gimmick, she recognized the problem because she has a dead son, and the other lady whose son lost a leg, she recognized the problem. It's the people responsible for eliminating the problem who may not have recognized it sufficiently. The parents who lost children or who have children whose limbs are gone for life, they have recognized it, and children who dropped out of school because nobody enforced the hour provisions. This is not a new discovery, there's nothing new about this, nothing.

What are the criminal penalty provisions of the Fair Labor Standards Act as they relate to child labor, Mr. Brooks?

Mr. **Brooks**. We have a criminal penalty provision if it's willful and repetitive.

Mr. **Lantos**. If it's willful and repetitive, then what is the provision?

Mr. **Brooks**. $10,000 and 6 months.

Mr. **Lantos**. $10,000 and 6 months.

Mr. **Brooks**. In jail, right.

Mr. **Lantos**. How frequently has the Department brought charges—brought criminal charges against employers on this matter?

Mr. **Brooks**. In my search I have not been able to find that we have ever brought criminal charges in child labor.

Mr. **Lantos**. Will you repeat that?

Mr. **Brooks**. In my search of the records we have not been able to find one case—there are zero cases that we have brought criminal charges on child labor that I'm aware of.

Mr. **Lantos**. Mr. Davis, do you have a similar answer?

Mr. **Davis**. Mr. Chairman, frankly, I'm just not prepared on that question. I just don't know the answer. My general understanding comports with Mr. Brooks.

Mr. **Lantos**. Well, that gives us two possible options. (a), either there were never any repeated and willful cases, or (b) the Department was less than diligent in bringing charges. Can you think of a third option?

Mr. **Davis**. There's not an option that comes readily to my mind, Mr. Chairman.

Mr. **Lantos**. Not to my mind, either. Now, given the scope and complexity of our society, which of the two options do you think is more likely to be the case? That there is not a single employer with repeated and willful violations of child law, or, a dereliction of duty in bringing such charges?

Mr. **Davis**. Mr. Chairman, speaking only as the Solicitor and I'm sure Mr. Brooks——

Mr. **Lantos**. I'm not asking you personally to take responsibility for it. This is an exercise in logic only.

Mr. **Davis**. I understand, Mr. Chairman, but I also wanted to make sure that I gave Mr. Brooks some room to disagree with me if he doesn't like my answer.

Mr. **Lantos**. OK.

Mr. **Davis**. Which is that I would be very conscious in answering that question because I don't know enough about the type of conduct that goes on out there. I will tell you, though, Mr. Chairman, that criminal enforcement generally is a matter that we stepped up since Secretary Dole came to the Labor Department and we are frankly having more successes and with some cases that are in the pipeline, not in this area, to my knowledge, but in other areas of concern to this committee, we will show more progress. I only came to that after understanding the factors, the types of behavior, and how we could proceed. I have not assessed it in the child labor situation.

Mr. **Brooks**. Generally in the cases that come up, once you cite a company they come into compliance, that is, they pay the fine, and come into compliance because that payment in the past has been a nominal one that perhaps they construed as a cost of doing business. So, I think, that's a phenomenon that we need to put into that mix.

Mr. **Lantos**. Congressman Shays.

Mr. **Shays**. Congressman Schumer has a couple of questions, and he has a plane he has to catch.

Mr. **Lantos**. Congressman Schumer.

Mr. **Schumer**. I very much appreciate both the chairman and Mr. Shays, of course, allowing——

Mr. **Shays**. Charlie, it will cost you.

Mr. **Schumer**. Yes, I know it will cost me, but it will be worth it. To help you, there is never a cost.

OK. I have a couple of questions I would like to go over.

First, just a general question. It seems to me, Mr. Secretary, one of the things we have not discussed and we should touch on is what caused this. Why, all of a sudden, is child labor back as a problem, when most Americans thought it was gone?

I have generally found three causes. No. 1, shortages in the labor market; No. 2, illegal immigration into the country, people who are not protected, do not want the Government to know, who work in little corners; and 3, changing demographics.

Do you agree with that list? Do you have any to add?

Mr. **Brooks**. I have one to add, and I think that is economic, particularly in the northeast part of the country, where unemployment rates are low. That is a problem.

Mr. **Schumer**. Yes, labor shortages.

Mr. **Brooks**. Yes.

I think the chairman may disagree with me, but I do believe that this movement of the number of violations from 9,000 to 22,000 in the last 4 or 5 years has raised the consciousness of the people and helped people start to look at this statistic. You know, it is a 144-percent increase or whatever. That has contributed to that somewhat.

Mr. **Schumer**. OK. Thank you.

I have two areas I want to focus on, each for 3 minutes or for 4 minutes, because I know that Mr. Shays also wants to get to it.

One is the tougher penalties. As you can tell from my testimony, I am just appalled at how weak the penalties are, and really, that is not the administration's fault. We should toughen the penalties here in Congress, and I have been trying to get that done.

What would be tremendously helpful, I think, is the support of the Secretary of Labor, not just to use the penalties that are on the books to maximum, the $1,000, but to be able to go way over that, both in criminal and in civil fines.

When I saw the Secretary on the Today Show yesterday morning, she was reluctant to either support the bill that Congressman Pease and I are drafting or even say whether the administration would support tougher penalties. Why, when we see how weak the penalties are, an average of $740 in an instance where someone was killed? You heard about what happened for—you know, a $400 penalty when someone lost his leg.

Why isn't the administration leading the charge to get these tougher penalties?

Mr. **Brooks.** I think we have, on February 7, when we announced that we were going to change the penalties, and have stiffer fines.

Mr. **Schumer.** But still a maximum of $1,000.

Mr. **Brooks.** $1,000. Prior to that, it was $1,000 a child. Now, it is a $1,000 a violation.

Mr. **Schumer.** Do you think that is enough?

Mr. **Brooks.** I do not know at this time. I really want to see what happens after this sweep, after we have others. I want to see if it has any impact, if it does deter people.

Mr. **Schumer.** Do you think a tougher fine would not deter people?

Mr. **Brooks.** What I am quarreling with is how tough does the fine have to be?

Mr. **Schumer.** Mr. Secretary—and I am sorry to interrupt you. It is only because I have to get--it would seem common sense—the average guy on the street says if it is $1,000 a violation and the person realizes that a labor inspector—an inspector is not going to come visit them, in all likelihood, except rarely, because we are never going to get the kind of inspection we really need, in terms of employing new inspectors, why isn't it just common sense that if they think that can get $1,000 worth of benefit from this child by exploiting this child that they will keep doing it and doing it and doing it?

How can you say—you may not agree they should be as tough as the bill I have proposed, but how can you say the present penalties might well be adequate? I do not see that at all.

Mr. **Brooks.** Well, not as they have been employed, but we are saying we are willing to go—we are looking at a proposal for regulatory action in terms of how can we raise the penalty in terms of the $1,000.

Now, the Secretary, on the Today Show yesterday, I think, said that we are also reviewing and looking at legislation as a possibility to raise that $1,000, and so our minds are not closed to that.

Mr. **Schumer.** OK. I would hope that you will—I had wished you would be a little more positive about these tougher penalties, but I would hope that, at some point, you and the Secretary of Labor will be.

Mr. **Brooks.** Please recognize that our minds are not closed, but we just want to make sure, as we step down that path, that we are doing the right thing.

Mr. **Schumer.** OK. Another question I had relates to industrial homework.

As you know, under the Reagan administration, the Labor Department began liberalizing these rules on industrial homework, and that is directly relevant to this hearing, because many of the people who are exploited in the homework area are children, and in fact, it is almost impossible to detect when they are doing it. It is in a home; it is not in a workplace. It is very hard to regulate, et cetera.

My question is would the Department of Labor consider tightening up the homework regulations, in general, and specifically in regard to children?

Mr. **Brooks**. Well, you know, the little industries, we are just embarking on that industry, and we have another——

Mr. **Schumer**. I did not hear the industry.

Mr. **Brooks**. In the little industries, the six that we had.

Mr. **Schumer**. Right.

Mr. **Brooks**. We are, at this point, looking at the certification process in place, and frankly, we do not have a lot of data at this point to——

Mr. **Schumer**. Do you think you ought to get some?

Mr. **Brooks**. Yes. Yes. I am always looking for more data, and that is a tough industry—and I think you know—a tough industry to get data on, children working in homes.

Mr. **Schumer**. Mr. Secretary, I agree with you. It is a tough industry to get data on, and for the very same reason, it is a tough industry to regulate. It opens the door wide open to exploitation of children, and I have to say that the loosening of these regulations that was done under the last administration has helped encourage that. The question is why don't we consider undoing that bad, making it tougher in the homework area?

Mr. **Brooks**. I think we will be reviewing that as part of our task force. We will be looking at all aspects of child labor.

Mr. **Schumer**. Once again, just in concluding, and I really appreciate the time, I just hope that you will seriously consider the need for tougher penalties. It is my judgement, as long as the penalties stay where they are, that we will be hearing, unfortunately, from people like the people we heard from, with children dying, losing limbs, and other kinds of problems.

Again, thank you and Mr. Shays.

Mr. **Lantos**. Thank you for your participation.

Congressman Shays.

Mr. **Shays**. Charlie, you will know what a pushover I am. I wanted to get the same plane.

Mr. **Schumer**. I will save a seat for you. I will bring the snack back. [Laughter.]

Mr. **Shays**. Mr. Brooks and Mr. Scannell, I just want to thank both of you. I have to tell you, whether we agree or disagree, I feel both of you are very competent people, who are trying very hard to resolve this the best you feel we can. We are going to have some disagreements, but I have no doubt about your sincerity. I have no doubt about your competence, and I think we can work together.

I am getting to know my chairman well enough so that I know, when he turns his pen like this, that something got him mad. I missed what got him mad until you said you did not need any resources, and you just put it all on your shoulders, and you allowed Congress to escape its obligation.

I mean it seems clear to me that you are trying to be more proactive, but you do need more inspectors. I mean you simply do, and you should say to us we need more inspectors. I do not know how many. I want to assess if we can increase the workload or the performance or not waste their time, and I think you are saying that.

Mr. **Brooks**. Congressman, you have to excuse my background and experience. It is just foreign to me to ever ask for any more resources when I have not made an accurate assessment of the fact that I really know where they are coming from and what am I going to do with them.

Mr. **Shays**. I appreciate that, and that is why I really think what you were saying—at least, I hope you were saying—is that you know you need more resources. Any person looking at the statistics that say you have 1,000 people nationwide, given the incredible workload that you have to do with these 1,000 inspectors, knows you need more.

I think the real question is how many, and I think the next question is when will you suggest that we increase that number? What you do by saying you do not need anymore is you allow Congress to do what it is famous for doing, and that is blaming the administration. I hope you are not going to let Congress get away with it, because Congress, then, has to decide if it is going to appropriate it, and I will tell you what, I bet we do not. I bet we do not give you the numbers you need.

Now, having said that, I am confused by the talk of penalties. I mean we have civil penalties, we have criminal penalties. I look at the child labor requirements, this pamphlet you all put out, and it says, "For each violation of the child labor provisions of any regulation issued thereunder, employers may be subject to a civil money penalty of up to $1,000," and I understand now what you are saying. You are going to do it per penalty and not per child, and that is an improvement, and you can do it without asking for any law, though I do think it is still a joke.

Why not give yourself $10,000? If you choose not to use it, do not, but why not have that fear?

I guess my first question is what would be your reluctance to ask Congress to give you the discretion of putting in more than $1,000 on a civil penalty?

Mr. **Brooks**. We are reviewing that, Congressman. We really are, but we want to get there in a very orderly, disciplined kind of way, but that is part of our review.

Mr. **Shays**. When do you think you are going to come back with a recommendation?

Mr. **Brooks**. I cannot answer that.

Mr. **Shays**. That is a logical question to ask. I am not going to fault you on a lot of things, but it seems to me I could at least know if you are going to come back 6 months from now or a year or 2 years or 3 years.

How long do you think this process is going to take before you make a determination one way or the other to ask Congress for increasing the civil penalties?

Mr. **Brooks**. For the civil penalties?

Mr. **Shays**. Yes.

Mr. **Brooks**. I am not sure. You know, we have to go through—yes, Bob.

Mr. **Davis**. Congressman, if I could just add a though to that——

Mr. **Shays**. He is doing it again. [Laughter.]

Mr. **Davis**. Mr. Shays, I am watching.

Even if I could offer a thought as to how long it will take us to bring our thoughts together in the Department, I also have a hesitancy to predict how long it would take us to go through the legislative clearance process in the administration. That is something we do not have control over, and I just do not know, not having raised the question, but specifically as to the Department effort, I would like to make sure the committee knows that Mr. Brooks, at the Secretary's request, is really taking the initiative to come up with these changes, one of which is to take a good, hard look at our authority.

That is something that he has been given the job of starting. He has put that in place. He is driving it very hard. He got this investigative effort around the country cranked up and done. So, this is all part of an effort to move out, making sure that we can look to the future as well as apprehending violators now.

Mr. SHAYS. You know, I do not mean any disrespect, but that is kind of a bureaucratic answer, because basically, what you are saying is you are trying your best, and you are going to be doing what you can, but it does not seem unreasonable for me to at least know when you would be willing to even say yes or no, we need more or we do not need more. It seems to me that within a few months, you should be able to assess that.

You are not willing to answer that, and I have to tell you, I am just not very happy about it, and maybe it should not affect me, but it seems to me a very reasonable request.

Mr. DAVIS. Congressman Shays, it very definitely is a reasonable request, and one of the things that we are doing in the Department, across the board, at the Secretary's insistence, that we started at the end of last year, is a very thorough look at our enforcement programs across the board, and that is something that is a major undertaking, of which our child labor enforcement is only part and has drawn conclusions to it while we are in that process.

One of the things that we are looking at is our overall penalty structure. I know that the members of this subcommittee have expressed concerns about the penalty structure under the Occupational Safety and Health Act. That is an issue we are looking at at the same time.

That enforcement review, as we probably too grandiloquently call it, is scheduled to come to some conclusions, to go to the Secretary, early this summer. I would think—although I really would need to go back and consult with my colleagues in the Department who are also part of that—that we would be able to take up the question that you have posed on that same basic schedule.

Mr. BROOKS. Congressman Shays, let me also add that I am having, in May, an enforcement conference of 3 days here in Washington, and I am bringing all my enforcement people in to deal with the strategy of how we are going forward with this thing, and one of the things is do we have enough people out there to do the things that I want to do.

Mr. SHAYS. Well, the answer to that is no, you do not have enough people. The question is how many people, and that is where we have our disagreement, because I am going to assume you know you do not have enough people, even if you are not willing to admit it.

Mr. **Lantos**. Some members of this committee are very tough on witnesses.

Mr. **Shays**. In terms of your explanation with regard to the penalties, it says, "The Act also provides, in the case of willful violation, for a fine up to $10,000, or for second offense committed after the conviction of such person for a similar offense, for a fine of not more than $10,000 or imprisonment for not more than 6 months."

Basically, Mr. Scannell, this seems to parallel the whole violation for murder in the workplace. It is a pathetic amount of money.

I do not know what you thought when you heard this young fellow testifying, but he is not an unusual circumstance. We know the statistics are significant. By the way, do you know if this operation that hired a 13 year old was fined criminally?

Mr. **Brooks**. It was not criminal.

Mr. **Shays**. Why not?

Mr. **Brooks**. It was the first time. Therefore, a civil money penalty was issued.

Mr. **Shays**. That is why I was bringing this up. It seems as if we lump all the penalties together, and we almost treat it as if it is the same kind of problem.

My sense is that if you had an adult who knew that they had manipulated a system and endangered a 13 year old, that they should have been prosecuted. I have a feeling they were not prosecuted, because the way our law is written, it is too difficult to prove conviction, and frankly, it is not worth the effort—6 months in jail, a possible $10,000 fine. I have to tell you, in the review of this, I would like you to use as an example just that young man here, and ask yourself why wasn't that company fined. Why didn't someone go to jail?

The guy was sucked in, his leg was separated. You did not see the pictures I did. Yet, this operation was not fined criminally, and that just tells me we have got a big problem. I think the reason is that the penalties simply are not worth the effort.

Mr. **Scannell**. That was referred by ESA to the Maryland Occupational Safety and Health Administration. That's a State plan in Maryland. I do not have all the details, but I do know it was determined that it was not willful, that the piece of equipment was bought secondhand, and it was bought that way, and that the employer was not aware of the requirement for the guard. I am just relaying the story.

Mr. **Shays**. Mr. Scannell, what we learned from the OSHA law is that you had to prove a conviction, and the only way you could succeed was if there was, in fact, a willful effort. You had to prove there was violation of an OSHA law.

Mr. **Scannell**. Yes.

Mr. **Shays**. It had to be 100 percent an OSHA law. In other words, if 90 percent of it was OSHA and 10 percent was some other reason, you cannot get a conviction. Do you know what I am saying?

Mr. **Scannell**. Yes.

Mr. **Shays**. So, when I speak to prosecutors, they have to say it is impossible to convict someone and prove that the only reason it happened was a violation of an OSHA law. What you are telling me here is that this individual, when all the kids around it knew that they tampered with it and knew it was not working properly, even these young kids knew, and knew it was a dangerous piece to be around and, yet, were a little careless. We could not get a conviction, because it was not solely and completely a loss of a leg due to just an OSHA violation, and so, that tells me that the test is simply too difficult. I hope that somehow it is reaching you and Mr. Brooks, as well, it is a joke.

Mr. Brooks, are you aware of how many people have been sent to jail because someone has been killed or seriously injured in the workplace?

Mr. Brooks. I would say few.

Mr. Shays. Very few. We know, at least in construction, that there were 100,000 deaths—100,000—and we know there were 13 prosecutions in the last 20 years, and we know one person spent some time in jail.

Now, it tells me that something is wrong with the criminal code, and it is our responsibility, but why let us get off the hook? Why don't you tell Congress to get on the stick and do its job? That is my problem.

It seems to me Congress blames the administration, and you can blame Congress, and nothing happens.

In terms of this, I think, impressive action, where you went out and you used, I think, 500 of your 1,000 inspectors, how did you decide who to target?

Mr. Brooks. We left that up to our 10 regions, and they targeted the places that were most likely to employ young people—restaurants, fast food, pizza operations, bakeries, movie theaters—and there was no target of a particular one, but we generally understood where we could find them.

Mr. Shays. I will not read the names, but that is consistent with the type of firm that you gave us—a doughnut shop, a food store, a food stand, a pizza store. You have a roofing contractor, then a restaurant, a restaurant, a restaurant, a cafeteria, a food store, a restaurant, a fast food store.

Is it your judgment that Mr. Lantos is, in fact, right when he says that it is fairly easy to know where you are going to get the largest number of violations in terms of child law violations?

Mr. Brooks. I think so. I think the list that you just read and the one I cited are—the majority of the youngsters are working in those places.

Mr. Shays. His point, I think, is well-taken, is it not, that in fact, there are just a whole host of businesses where your inspectors will go in that they may look for child violation, but they have no anticipation they are going to find it. So, if they find it, that will be a curiosity to them.

Mr. Brooks. Well, in fact, during the sweep, in New York City, in the garment area, we went into 16 locations, and we found only 1 child. So, it is always speculation.

Mr. Shays. The Fair Labor Standards Act was passed in 1938. Have we had many revisions since then?

Mr. Brooks. Very few. As part of our actions, we are going to make a regulatory proposal that, on three of those hazardous occupations, orders: HO-2, which requires that school bus drivers have to be 18 HO-12, regulating paper balers, which are very, very dangerous equipment, and HO-10, dealing in the operations of meat slicers. Those will be regulatory proposals that we will be moving along rather quickly.

Now, the other 14 hazardous occupations orders, we are putting those over in this committee where Mr. Scannell has his standards writing people, to make sure that we bring them up to the 20th century, that if the occupational hazards no longer exist, we want to make sure that they are not included, but furthermore, there are a lot of occupations which exist today which are hazardous, which are not included in those 17.

So, we are taking a real thorough look at those occupations.

Mr. SHAYS. I do want to. The timetable for that is what?

Mr. BROOKS. The three that we are going to take——

Mr. SHAYS. No, to review the whole Fair Labor Standards Act.

Mr. BROOKS. In terms of the occupation? We are starting that right now.

Mr. SHAYS. Right. One reason why I have a lot of sympathy for the fact that you have only been in, I think, for 6 months and we have to have tremendous tolerance in allowing you to get up to speed is that it has taken me 2 years, as a Congressman, to get my office to function the way I want it. I have 16 staff members, and I like the way they function now, but it took me a while.

So, you have a lot more people, and I mean this very sincerely, it takes a while. I understand that, but at the very least, I try to set a timetable. I try to give my staff a timetable of when we are starting and this is when we want to end.

Have you set an objective as to when you want to conclude the review of the law?

Mr. BROOKS. I have one. I am trying to find it here.

The first interim report on data collections is June 15, but I have two other dates. I have an April 10 date for a MOU between ESA and OSHA, and I have an April 15 date, some things are happening.

So, I do have a timetable.

Mr. SHAYS. I will just conclude by saying this committee is very fortunate to have in its jurisdiction housing, which was an interesting year. By fortune, I mean, we have a tremendous Secretary in charge of housing, and I feel the same way about the Labor Department.

I think Elizabeth Dole is a very good appointment, and I do not want it to seem as if I am going behind your backs, but I am going to write her a letter that just is very candid in saying it seems to me it is reasonable for this committee and for Congress to know your feelings, her feelings, about civil and criminal penalties and to know what she thinks about the assessment of whether she needs more inspectors.

You are not going to speak for the Secretary as to when she is going to give it to us, and I understand that, but I think, very candidly, that we need to involve her in this and let her know that as soon as she gets this information from you—and if she can encourage it to come sooner—we would like some feedback and fairly quickly. In spite of some of the questions and answers that have taken place today, I feel that we can work together.

I do feel that the need is tremendous. I think that we are both involved in God's work and that we had better get on with it.

Thank you.

Mr. LANTOS. Thank you very much.

Our chief of staff has a question.

Mr. WEISBERG. Thank you, Mr. Chairman.

Mr. Brooks, with respect to computing penalties, I was struck, in your written testimony, at page 6, you give a hypothetical where you have a 15-year-old worker who has violated the hours limitation, who is illegally using a meat slicer, and also illegally using a food-processing machine, and yet, you state that, under the old system of penalties, that employer would only be fined $240.

Can you please explain to us why it would be only $240 as opposed to $1,000?

Mr. BROOKS. Yes. We have a matrix in our manual which outlines the severity of whatever the act or violation was, where it should fall on the pendulum.

For example, a death would be $1,000, you see, and obviously, in this particular case, the $250 was down the pendulum. I think the $1,250 is the maximum in that particular example. That could be $3,000, depending on the severity of the particular violation.

It is judgmental. OK?

Mr. WEISBERG. Basically, when you talk about $1,000, you will only impose a $1,000 fine if there is a death, but if you have an individual with three separate violations, including using hazardous machinery, that employer can only be fined, under your matrix, $240? That would continue under your new system, so that the employer, according to your hypothetical, would only be fined $1,250?

Mr. BROOKS. No. There is some judgement as to the severity of the act or the violation.

Mr. WEISBERG. This is, again, your hypothetical.

Mr. BROOKS. Yes.

Mr. WEISBERG. You explained a situation where you have multiple violations by a single employer, including some that most of us feel is rather hazardous.

Mr. BROOKS. Unfortunately, in putting that example together, we went in and took one that was a $250 and said what would that violation charge—that similar violation for $250, how much would they pay for that similar violation today, and that is some five times more, which is $1,250. If that was a $1,000, it could be $3,000.

Mr. WEISBERG. In the usual situation, where you do not have a death, do you believe this would really serve as a deterrent to an employer, knowing that you are talking about a $240 fine?

Mr. BROOKS. That is not there anymore.

Mr. WEISBERG. Now it is $1,250.

Mr. BROOKS. That is right.

Mr. WEISBERG. Why isn't it $5,000?

Mr. BROOKS. Well, the statute limits us to $1,000 a violation.

Mr. WEISBERG. Now, you are saying that, under your new system, you are interpreting differently. So, instead of $1,000 per child, it would be $1,000 per violation.

Mr. BROOKS. Yes.

Mr. **Weisberg**. So, you could fine the employer $5,000. Is that correct?

Mr. **Brooks**. Yes.

Mr. **Weisberg**. You have chosen not to in your hypothetical?

Mr. **Brooks**. In this situation, I limited it to three violations.

Mr. **Weisberg**. Right.

Mr. **Brooks**. If you found one where there were four violations it would be $4,000.

Mr. **Weisberg**. I guess the question—this will be the last one, Mr. Chairman—is I am having a problem with your matrix, and I think a lot of people, when you see the figure $1,000, assume that you are talking about a $1,000 fine, and I think it is important to stress that we are not even talking about the $1,000 fine, but that in a situation with, perhaps, multiple violations, you could be, conceivably, talking about only a $250 fine. The question is, in that situation, do you think $250 is a sufficient deterrent?

Mr. **Brooks**. If $250 was a sufficient—what we had before—it is now $1,250. In almost every case, we are going up at least 60 to 300 percent in each violation.

Mr. **Weisberg**. Do you think $1,250 is a sufficient deterrent when you have the authority to impose to $5,000 in that hypothetical?

Mr. **Brooks**. In that example, I do not, because there are three violations. So, $3,000 would be the limit.

Mr. **Weisberg**. OK. Whether we are talking about three or five, but you have $250 with three, and then you have $1,250—I assumed it was five.

Mr. **Brooks**. No, $1,250 was three. The same number of violations that got you $250 before is going to get you $1,250 now.

Mr. **Weisberg**. Right.

Mr. **Brooks**. The same violations, the three.

Mr. **Weisberg**. Do you think the $1,250 would be a sufficient deterrent, when you could go as high as $3,000 for three violations?

Mr. **Brooks**. I will tell you, if we have an employer that has multiple violations, it could, like some that we discovered the other day, where you have, for example, a restaurant employing more than 130 minors in violation of the hours restrictions, and we start hitting each one of them for $1,200, that is a substantial fine for that particular restaurant.

Mr. **Weisberg**. Recognizing that in order to come under the jurisdiction of the Labor Department, one has to meet the jurisdictional standards, including, I believe, a quarter of a million in sales, $362,000 if you are in the retail industry, do you think that is a sufficient deterrent to a company that size?

Mr. **Davis**. If I might add to that, the Fair Labor Standards Act was amended at the end of last year, now providing for individualized coverage in smaller establishments, so that it is—again, the hypothetical is not well-enough developed to establish the coverage, but I think it is quite likely, with a legislative change, that we could reach an establishment of a smaller size.

Mr. **Weisberg**. Thank you, Mr. Chairman.

Mr. **Lantos**. Congressman Shays.

Mr. **Shays**. Just one question.

So I can anticipate what we might find later on with whatever you recommend to do with the civil and criminal penalties, I want to know if your logic tells me the same thing, whether you agree with this, that it is clear that even if you had 10,000 inspectors or a larger number than 1,000, you are not going to be able to inspect every site. Some businesses will simply not be inspected. Obviously, the more inspectors you have, the more likely they will be inspected.

So, given that an employer can make an assumption that he may not be inspected for years, would you agree that the higher the penalty is, the more willing an employer will be to conform to the Fair Labor Standards Act, because he or she does not want to risk that high penalty?

Mr. BROOKS. I agree with that.

Mr. SHAYS. OK. Thank you. I will stop there.

Mr. LANTOS. I just have a couple of concluding questions.

Your San Francisco Bay area assistant district director was quoted in today's San Francisco Chronicle as saying the sudden move against child labor law violators probably came about because there was congressional interest. So, maybe you folks should coordinate your answers. The regional wage and hour director said there are some big names involved among the companies cited.

Now, let me go back to your request, Mr. Davis. Please give us an exact date by which time all these names will be revealed.

Mr. DAVIS. Mr. Chairman, I need to have a computation, if you will, made by the Wage and Hour Division in terms of when all of the names physically will be brought to Washington. I just, literally, sitting here this morning, do not even know the mechanics.

I do not know whether Mr. Brooks is aware of it, but I just do not know.

Mr. BROOKS. As I said, in order to get to that citation point, it normally takes 90 days on a case. We are going to move that up.

Mr. DAVIS. I actually wanted to speak to that, if I might.

Mr. LANTOS. Please.

Mr. DAVIS. We had a little comradely exchange of thoughts here, Mr. Chairman.

I was only going to the first point, that as to, if you will, the alleged violators that have been determined in the field structure, just even, physically, the names are still on their way to Washington. So, we just do not even have that at this point, although they are coming in.

The second thing is the point that Mr. Brooks started to make—it is my understanding that it typically takes between 30 and 60 days to go through the process to issue a citation, which is then, as I understand it, a matter of public record, when the citation is issued.

We are doing our best, and certainly, knowing the subcommittee's interest, I will go back to work with my lawyers, and I would suspect Mr. Brooks is getting the same message, to go back to work with his folks, to hurry that process up, and I would certainly be willing to keep subcommittee staff briefed as to our——

Mr. LANTOS. That is not good enough. Let me tell you what I am proposing to you and what I am asking you to carry back to Secretary Dole, for whom, by the way, I have the highest personal regard. I think she is doing an outstanding job, and she has my full support.

We will not wait until the last case is completed. There is nothing magic in having all 7,000 violations revealed the same day.

I want a commitment from the Secretary—you will get that for me early next week, I am sure—that by April 1, we will have the first batch released, where you have confirmed that, in fact, the violation took place.

Mr. Davis. I will undertake that, Mr. Chairman.

Mr. Lantos. Every 2 weeks thereafter, as the workload is processed, there will be a release. This subcommittee will not wait until the last of the 7,000 alleged violations will be run through your mechanism. We will want a report on a biweekly basis.

Mr. Davis. Understood, Mr. Chairman, and I would like to say that I did not mean to communicate to the subcommittee that we would wait until the end.

Mr. Lantos. OK. That is very good.

Moreover, I expect that your people are very responsible people, and if they claim to have found 7,000 violations and if Secretary Dole, who is an extremely responsible individual, made this in a major public statement, we anticipate that the very large proportion of these, in fact, will check out. We would be very surprised if, of the 7,000 cases she cited yesterday, upon examination, only 10 percent of them were, in fact, violations. We would expect them to be, by and large, accurate.

So, we are looking forward to working with all three of you gentlemen. We appreciate your testimony, but we are very anxious to move on this and look forward to hearing from you early next week.

We thank you very much for your testimony.

Mr. Davis. Thank you, Mr. Chairman.

Mr. Brooks. Thank you.

Mr. Lantos. Our next panel will be—I am going to combine these—Mr. Thomas Hartnett, commissioner of labor, New York State Department of Labor; Dr. Philip Landrigan, American Academy of Pediatrics; and Ms. Linda Golodner, chair, Child Labor Coalition.

Mr. Frazier, if I may ask you to stay, there may be some questions by members of the committee.

Would Ms. Golodner please come up to the witness table?

[Witnesses sworn.]

Mr. Lantos. We are very pleased to have all of you, ladies and gentlemen. I understand Mr. Hartnett needs to get away and make an airplane, so we will begin with you, sir. Your prepared statements will all be entered in the record. You may proceed in your own way.

Mr. Hartnett.

STATEMENT OF THOMAS F. HARTNETT, COMMISSIONER, NEW YORK STATE DEPARTMENT OF LABOR, ACCOMPANIED BY RICHARD POLSINELLO, DIVISION OF LABOR STANDARDS

Mr. Hartnett. Thank you very much. Thank you, Mr. Chairman, and thank you for the opportunity to testify here today.

On behalf of myself and Governor Cuomo of New York, I want to commend you for taking the initiative in conducting these hearings in an area that is of great concern to the citizens of New York.

The gentleman to my right is Dick Polsinello, who is the head of my labor standards division with the department of labor. He will not be testifying but will be here today to help in answering any questions you might have.

Two years ago, in his annual State of the State address, Governor Cuomo directed me to conduct a review of New York child labor laws. This request came at a time when we in the labor department had seen a dramatic increase in the number of cases of children found illegally employed. Moreover, the Governor's request was an acknowledgement of the dramatic changes in the State's work force, in industry technology, in the kinds of hazards being faced by young people at the worksites since these laws were reviewed——

Mr. Lantos. Let us suspend for a minute.

Could we close the door, please?

Thank you.

Mr. Hartnett. Thank you, Mr. Chairman. In the kinds of hazards being faced by young people in the workplace since the laws in New York State were reviewed in any comprehensive way, which was in 1962, the last time they were reviewed.

Upon Governor Cuomo's request to conduct this review, the department focused on three main goals. The first goal is to review the law to determine whether or not it was relevant to present and future employment situations; present employment because it is our job in the New York State Department of Labor to protect working young people and future employment because it is also our job to contribute to an overall environment that provides for safe and viable employment opportunities for the work force of the future.

The second goal was to ensure the health and safety of working minors and to review existing prohibitions against young people working in certain occupations. I will expand on that a little later in my testimony, but briefly, there are many occupations that have emerged since the law has been updated, and we wanted to find out whether or not those occupations were safe at this particular time.

Our third goal was to clarify and simplify current provisions, both for employers and for youths. We know that there is a certain amount of misunderstanding on the part of employers and youths as to their responsibilities under the law. We wanted to find out what areas of the law were confusing and how we could best make it easier for young people and employers to understand and comply with the law.

To accomplish our objectives and ensure that the opinions of all interested parties in New York were included, we undertook what was, in essence, a four-component review—an interdepartmental task force of relevant inspectors within the department of labor, whether they were from worker protection or labor standards, health and safety, all the players, if you will, within the labor department in New York State that work in these areas.

The second group that we put together was an advisory committee of outside experts, if you will—members from the education community, youth-advocacy groups, employer groups, agricultural organizations, unions, and government agencies, as well as experts on the new and emerging technology. This was a very unique group, and one of the distinguished members of the group, Dr. Philip Landrigan, is here with us today from Mount Sinai Medical School. This committee's mission was to review the current child labor laws and provisions and provide recommendations to the department for change.

We then did a series of public hearings around the State, and we invited in parents, individual, and corporate employers, unions, farm industry representatives, educators, and other concerned individuals, and lastly, we solicited input from some 4,000 young people around the State through a questionnaire process and received about a 75 percent response rate to those questionnaires.

Now, I mention that process because it may, in fact, help in terms of your own review of Federal legislation but also as a backdrop to our recommendations, because I think it reinforces the point that, first, we have been at this for a number of years and have legislation that, indeed, was submitted to the New York State legislature for change last year. Second, the recommendations that we have made in my judgement, have a strong foundation based on research and expertise in the field. Let me touch on some of the findings.

Among the findings, we found a 180 percent increase in the number of children found illegally employed from late 1984 through 1989 in New York State and a 54 percent increase in the number of minors found employed without valid employment certificates.

Now, the first number indicates to me, that increased percentage of 180 percent, the seriousness of child labor violations and the dramatic increase that we have seen.

The second number, the 54 percent increase in the number of minors found employed without appropriate documentation, means more than just the lack of processing appropriate papers. What it means is that there are many young people who, because they do not have working papers, do not know their rights under the law. Furthermore, it means that there are also a large number of employers who do not know what laws they must abide by.

Among some of the most telling findings in all of the reports that we saw were the responses that the young people gave us to the questionnaires. Fifty-six percent of the responses analyzed indicated that young people had participated in prohibited work activities or had experienced other child labor law violations.

Among the comments were a 15 year old, a young person working 35 hours per week, sometimes after midnight at an auto repair shop, using machines such as a brake lathe, a grinder, an arc and mig welder, and a hydraulic lift. The individual involved that responded to the questionnaire sustained an eye injury on the job as a result of being splattered with battery fluid.

A 12-year-old boy who admits working on a construction site, a machine operator and working on auto-collision equipment, working 20 hours per week, operating a bulldozer, a tractor, a bobcat, and a backhoe, had no working papers and was not explained any of the rights that he was entitled to enjoy as a citizen.

A 15 year old working as a cook attests to logging up to 45 hours per week while in school. The minor had no working papers and was not informed of his rights. In the course of the minor's job, he lost a finger while using the slicer and suffered third-degree burns on his arm from a deep-frying machine, and the individual also admitted to working after midnight and off the books.

A 15-year-old youth who operated farm machinery worked 38 hours per work, sustained a laceration to the back of his head while working but did not report it and was told not to report it to workers' comp. He was asked by his employer to work off the books.

Four stories, each representing a significant violation, all of them illustrative of the many of the responses that we received from young people.

Let me touch on the proposed child labor legislation that the Cuomo administration is proposing in New York State.

As a result of our extensive review, we found that there were several areas where there was a need to amend the law. For purposes of time, I will only touch briefly on these changes. Attached to my written testimony is a comprehensive review of our legislation. However, in order to understand the reasons behind the proposed legislation, it is important to understand our view on young people working.

There are many positive aspects to a young person working during their high school years. Working can teach them many valuable skills such as budgeting, interpersonal communications, organizational, leadership, and problem solving skills.

In many cases, when there is an appropriate balance between work and school, young people can benefit greatly from the work experience. It is when there is not a balance, however, or when a young person is being exploited or when a young person is working in a hazardous job that we believe government must exercise its responsibility to protect the health, the safety and well being of our minors.

The reason we have child labor laws goes back to the 1800's when laws were first introduced to combat the proliferation of child labor in textile mills and manufacturing houses. Over the last century, we have come a long way in combatting the dangerous and often deadly conditions of those days. Unfortunately, we haven't come far enough. Exploitation of children in the workplace still exists today, often in more subtle ways, but nevertheless, just as harmful as 100 years ago.

So, one of the crucial, underlying themes in New York's proposed legislation is striking the balance between education and work. Going to school is a child's most important job. Ensuring that children have the opportunity to develop the skills we will require of them in the future is the most important obligation of government, business, education and labor. Yet work can drastically interfere with this goal.

We reviewed a 1986 study published by the Harvard Graduate School of Education that reported that adolescents who work excess hours do less homework, miss more school than their counterparts who do not hold jobs.

A recent study conducted by the University of Michigan found that high school students who work excessive hours during the school year are prone to a variety of problems, including a decrease in their academic performance.

Presently, in New York State 17 year old high school students are permitted to work up to 48 hours a week while school is in session. That is more hours than the average person works at a full-time job. We found this situation to be unacceptable. Moreover, we believe that 16 and 17 year olds should not be allowed to work until midnight on school days as is currently the case in the New York State law.

To address this situation, New York's proposed legislation includes limitations both on the maximum daily hours and on the number of hours minors can work on days preceding school days. The major change that we propose is reducing the number of hours that 17 year olds can work while school is in session from 48 hours per week to 28 hours per week.

We also have a recommendation in the legislation that will result in the department being able to grant variances in unique situations. These variances would be granted in an effort to respond to special circumstances such as outstanding academic performance. And we have a process that we have outlined in the legislation that will enable a young person to be able to come to the department seeking a permit to work perhaps in excess of that statutory limit that we would set as long as that is signed off on by a guidance counselor in school and that young person's parents.

Furthermore, advances in technology have made some jobs that were once dangerous now much safer and, as a result of that, we would look to the issue of permitting variances in particular industries where that industry can demonstrate to our satisfaction that they have invested in the appropriate kind of equipment to make that a safe workplace.

Let me turn to enforcement for a moment. In our review, we also found that the current civil penalties that are available in New York are not adequate as deterrents for child labor violations. These penalties, which may be for violations which could have resulted in the injury or death of a minor, are less than those issued for wage payment, industrial homework, or minimum wage violations.

To address this discrepancy, New York's legislation brings civil penalties for child labor violations in line with those for other labor law violations. We have recommended an increase in the penalties for a first violation to $500, a second violation $1,000, a third violation $2,000, and treble damages in instances where a serious injury occurs of a minor. We also, as part of our enforcement, publish all of the names of the individual firms that are cited in New York. We have been doing that, now, for some time and we have found that to be a fairly effective tool.

There are also administrative changes that we are proposing. There is a list of prohibited occupations in New York right now. We don't feel that is as up to date as it should be and we have recommended that there be a permanent group that would advise me and update that list as new technology comes into the workplace. That would be a permanent child labor advisory committee and we would have experts like Dr. Philip Landrigan, from whom you will hear in a moment to speak to some of those issues of occupational health and safety for minors.

One of the most critical areas that was brought to our attention in the hearings and in the questionnaires that we sent out to the young people, to employers and to the parents was that many children are not aware of the current provisions and their rights under the labor law.

In an effort to increase the awareness of these laws, the department last year joined with businesses, unions, educational institutions, and youth advocacy groups and produced a teacher guide called "The Working Teenager." I believe a copy of it was brought up to you as I started to testify. This booklet is now part of the curriculum in many of the high schools in New York State and, indeed, over 60,000 young people have an opportunity, when they take an occupations course in New York, to be brought up to speed as to what their rights are as a 14-, 15-, 16-, or 17-year-old worker in New York with case studies and minimum wage examples and the like, so that young people know what their rights are as they go into the workplace. We have found that to be a very effective tool. We also make many of our inspectors available to go out and speak with local chambers of commerce about what business has as an obligation and what the law is with respect to employing children.

Let me conclude my remarks by reiterating New York's position on child labor. We believe that going to school is a child's most important job and we think that our legislative initiative in this area reflects that. Ensuring that children have the opportunity to develop the skills we will require of them in the future is the most important obligation that we as part of government, both Federal and State, business, labor, and education have.

At a time when employers are searching for people to staff entry-level and part-time positions, it is particularly tempting to ease child labor restrictions and create greater access to this labor pool. Indeed, there are some States throughout the country which have chosen to do just that and expand the number of hours that young people can work and relax other restrictions.

In New York State, Governor Cuomo and I believe that such a strategy is shortsighted. It ignores our obligation to protect children from exploitation in the workplace. It ignores our obligation to children who must be able to communicate verbally and in writing and apply that knowledge to math and science and to effectively compete for jobs in the future. It ignores the fact that the best place that a young person can learn those skills is in school.

Instead of relying solely on child labor to fill these jobs, we believe that government, business, labor, and education must look for creative ways and innovative ways of recruiting others into the workplace, other than exploiting our youth work force.

New York's proposed legislation places the highest priority on protecting children and ensuring that their work experience enhances rather than detracts from their educational experience.

In addition, the recommendations recognize the value of young workers to New York's business and provide government and employers with the flexibility to keep the law up to date with the changes in the economy, technology and demographics.

The exploitation of children in the workplace is not just the problem facing New York, it is, indeed, a national problem. That's why we in New York are very pleased to see that the Federal government recognizes this is a problem as evidenced by the enforcement that we have heard about here this morning. And I am please to see that much of the review that the Federal DOL is going to take will be reaching out to some of the same groups that we have used in the review that we have conducted in New York.

Let me take this opportunity to publicly offer the New York State Department of Labor's support to this committee's activity and also to Federal DOL in helping them design in what, we believe, would be some necessary changes to the labor law.

I want to thank you for the opportunity to come here this morning and testify and I will be happy to answer any questions you have at the conclusion now of my testimony or, perhaps, when the others have had an opportunity to speak.

Thank you.

[The prepared statement of Mr. Hartnett follows.]

Testimony
Commissioner Thomas F. Hartnett

Oversight Hearing on the Problem of Child Labor and the Exploitation of Youth in the Workplace

March 16, 1990
Rayburn House Office Building–Rm. 2247

Introduction

Thank you for the opportunity to testify here today. On behalf of Governor Mario M. Cuomo, I want to congratulate you for taking the initiative in conducting these hearings in an area that is of great concern to the citizens of New York State.

Two years ago, in his Annual State of the State Address, Governor Cuomo directed me to conduct a review of New York's Child Labor Laws. This request came at a time when we in the Labor Department had seen a dramatic increase in the number of cases of children found illegally employed. Moreover, the Governor's request was an acknowledgement of the dramatic changes in:

1) the State's work force,

2) in industry technology, and

3) in the kinds of hazards being faced by young people at work

since the laws were last revised in 1962.

NYS Department of Labor's Child Labor Law Review– The Process We Used

Upon Governor Cuomo's request to conduct this review, the Department focused on three main goals. For purposes of this testimony, let me point out that New York's Child Labor Law defines a minor is anyone under 18 years of age.

The first goal of the review was to determine the laws' relevance to present and future employment situations; present employment because it is our job to protect working young people, future employment, because it is also our job to contribute to an overall environment that provides for safe and viable employment opportunities for the future work force.

The second goal was to insure the health and safety of working minors and to review existing prohibitions against young people working in certain occupations. I will expand upon this a little later in my testimony, but briefly, there are many new occupations that have emerged since the laws were last updated. Some of these new occupations may be hazardous for young people. We wanted to find out what these occupations were and whether or not young people should be prohibited from occupying these jobs.

Our third goal was to clarify and simplify current provisions for both employers and youths. We know that there is a certain amount of misunderstanding on the part of employers and youths as to their responsibilities under the law. We wanted to find out what areas of the law were confusing and how we could make it easier for young people and employers to comply with the law.

To accomplish our objectives and ensure that the opinions of all interested parties were included, New York's review included four components:

1) Intradepartmental Task Force

The first component of our review was the establishment of an Intradepartmental Task Force made up of employees from various areas of the department including Worker Protection, Labor Standards, Safety and Health, Research and Statistics, Counsel's Office, Job Service and Training, Affirmative Action, Communications and Labor Planning and Policy Development. This task force was charged with identifying and reviewing child labor issues and making recommendations for change.

In fulfilling its charge, the Task Force reviewed relevant literature, published research data and national studies covering various aspects of the child labor question.

2) Advisory Committee

The second component of the review process was the establishment of a Child Labor Advisory Committee made up of representatives from:

- education,
- youth advocacy groups,
- employer groups,
- agricultural organizations,
- unions, and
- government agencies
- as well as experts on new and emerging technologies.

This unique group of individuals included such distinguished members as Dr. Philip J. Landrigan from Mt. Sinai Medical School, Ms. Dorianne Beyer, General Counsel of the National Child Labor Committee, Dan Walsh, President of the Business Council of New York State, Thomas Hobart, President of the New York State United Teachers and other prominent business and union leaders across New York State.

The committee's mission was to review current child labor laws and provisions and provide their recommendations to the Department. Furthermore, because of the vast expertise represented on the committee, this group also assisted in the formulation of new directions in youth employment legislation, regulation and enforcement.

3) Series of Public Hearings

The Department held public hearings in five locations across the State of New York. Participants at these hearings included parents, individual and corporate employers, unions, representatives of the farm industry, educators and other concerned individuals.

4) Questionnaire on Employment of Minors

In an effort to solicit opinions from youth, the Department sent approximately 4,000 questionnaires to youths across the State. Response to the questionnaire was extremely high--approximately 3,000 questionnaires were returned.

Review of Process

First, we've researched and looked at this issue for a long time.

Second, the recommendations have a strong foundation based on research and expertise.

Findings

The review found that there are a number of youth in New York State that are working long hours in occupations that are unsafe.

Among the findings of our review were the following:

- 179% increase in the number of children found illegally employed from 1984-1989;
- 54% increase in the number of minors found employed without valid employment certificates

The first number indicates a serious increase in child labor violations. The last number means much more than just a lack of processing the right papers. What it means is that there are many young people who, because they do not have working papers, do not know their rights under the law.

Furthermore, it means that there are also a large number of employers who don't know what laws they must abide by when employing young people.

But among the most telling of the findings were in the youths' responses on the questionnaires. 56% of the responses analyzed indicated young workers had participated in prohibited work activities or experienced other child labor violations at work.

Among the comments that were included on these surveys were the following:

- At age 15, a young person professes to working a 35 hour work week, sometimes after midnight, at an automotive repair shop. He used such machines as a brake lathe, grinder, arc and mig welder and hydraulic lifts. He sustained an eye injury on the job from battery fluid.
- A 12 year old boy admits to working as a construction worker, a machine operator, and an auto collision worker, working 20 hours during a school week. He operated a bulldozer, tractor, bobcat and a backhoe. He had no working papers and was not explained his rights as a minor.
- A 15 year old working as a cook attests to logging up to 45 hours during a school week. The minor had no working papers and was not informed of his rights as a minor. In the course of the minor's job, he lost a finger while using a slicer and suffered a third degree burn on his arm from a deep frying machine. The individual admits to working after midnight and "off the books."
- A 15 year old youth who operated farm machinery worked 38 hours during a school week. He sustained a laceration to the back of the head while working but didn't report it to workers' compensation. He was asked by his employer to be paid "off the books."

Four stories, each sadder than the one before. All of them illustrative of the responses we received.

NYS's Proposed Child Labor Legislation

As a result of our extensive review, we found that there were several areas where there was a need to amend the law. For purposes of time, I will only touch briefly upon these changes. Attached to my written testimony is a detailed report entitled "Children in the Workforce--Setting our Priorities" which describes in more detail the specific changes that Governor Cuomo has proposed.

However, in order to understand reasons behind the proposed legislation, it is important to understand the governor's view on young people working. There are many positive aspects to young people working during their high school years. Working can teach them many valuable skills such as budgeting, interpersonal communications and organizational, leadership and problem solving skills.

In the majority of cases, when there is an appropriate balance between work and school, young people can benefit greatly from work experience. It is when there is not a balance, however, or when a young person is being exploited or when a young person is working in a hazardous job, that we believe government must exercise its responsibility to protect the health, safety and well being of our minors.

Protection of our Young People--#1 Priority

The reason we have child labor laws on the books goes back to the late 1800s when laws were first introduced to combat the proliferation of child labor in the textile mills and manufacturing houses. Over the last century, we have come a long way in combatting the dangerous and often deadly conditions of those days. Unfortunately, exploitation of children in the workplace still exists today--often in more subtle ways, but nevertheless, just as harmful as 100 years ago.

And so one of the crucial underlying themes in New York's proposed legislation is striking the balance between education and work. Going to school is a child's most important job. Ensuring that children have the opportunity to develop the skills we will require of them in the future is the most important obligation of government, business, education and labor. Yet work can interfere with this goal.

- A 1986 study published by the Harvard Graduate School of Education reported that adolescents who work excess hours do less homework and miss school more often than their counterparts who do not hold jobs.
- A recent study conducted by the the University of Michigan found that high school students who work excessive hours during the school year are prone to a variety of problems, including a decrease in their academic performance.

Presently in New York State, 17 year old high school students are permitted to work up to 48 hours a week while school is in session. That's more hours than the average person works at a full-time job--and they don't have to go to school five days a week. We found this situation to be unacceptable. Moreover, we believe that 16 and 17 year olds should not be allowed to work until midnight on schooldays, as is currently the case under New York State law. (I understand that under Federal law, youths ages 16 and 17 can work unlimited hours in jobs, even when they are in school).

To address this situation, New York's proposed legislation includes certain limitations on maximum daily hours and the number of hours minors can work on days preceding schooldays. The major change that we propose is reducing the number of hours that 17 year olds can work while school is in session from 48 hours per week to 28 hours per week.

Greater Flexibility for Employers

Many employers who testified at our public hearings pointed out the difficulties they encountered in hiring individuals to fill their jobs. We know that working can provide children with an opportunity to develop a sense of responsibility, gain self-confidence and learn business-related skills.

In an effort to address the needs of business, included in New York's Child Labor legislation is greater flexibility in the hours youth can work on days preceding weekends, holidays or non-schooldays and extends the hours during which they can work when school is not in session. Also included is greater flexibility for employers to change posted hours providing they do not exceed daily and weekly limits.

Variances

One of the recommendations resulting from the Department's review which is included in the proposed legislation is the ability to grant variances from the statutory provisions in limited circumstances. These variances would be granted in an effort to respond to those "special circumstances" such as outstanding academic performance of certain students or unusual circumstances of certain minor employees, such as the need to help support their family.

Furthermore, advances in technology have made some jobs that were once dangerous now much safer and vice-versa. In our review we found that current law prohibited minors from working with certain equipment that was at one time unsafe. However, since the law was passed nearly 30 years ago, we now have state-of-the-art equipment such as enclosed dishwashers and dough mixing machines operated by push button that are much safer than when they were first introduced on the market. In cases like these, the Department could grant a variance on an employer-by-employer basis, assuming a demonstration of safe policies and procedures.

Enforcement

In our review, we also found that current civil penalties are not adequate deterrents for child labor violations. These penalties, which may be for violations which have or could have resulted in the injury or death of a minor, are less than those issued for wage payment, industrial homework or minimum wage violations.

To address this discrepancy, New York's legislation brings civil penalties for child labor violations in line with those for other labor law violations. We have recommended increasing the penalties to up to $500 for a first violation, $1000 for a second violation, $2000 for third and subsequent violations and treble damages for violations which result in a serious injury or death of a minor.

Administrative Changes

In addition to legislative changes, our review resulted in a number of recommended administrative changes.

Prohibited Occupations

Unfortunately, advances in technology have made some types of equipment and occupations dangerous. A recent example involved the death of a 11 year old boy. This young boy was working in a grocery store in New York City and was crushed to death by a cardboard box crushing machine he was operating. Thirty years ago these machines did not exist–boxes were ripped apart manually and tied up with bailing twine. Such equipment as power nailers and staple guns, which are often used in retail stores, can present dangers to minors operating them. Yet their use by minors is not restricted.

As technology continues to change, so will the methods of work. Our review found that the law was in need of revision in the area of prohibited employment of minors because there are many new occupations that involve new machinery and/or toxic substances which require further study to determine if they should be prohibited to working minors.

As a result of the review, I have recommended to the governor that he create a Permanent Child Labor Advisory Committee that will advise the Labor Department on all aspects of this issue, from new and emerging technologies to educational concerns to legal aspects of the law. This Committee will recommend how the laws should be revised or amended to protect working children. Furthermore, they will also be called upon to advise me on questions of prohibited occupations.

Educational and Public Awareness Program

One of the most critical areas that was brought to our attention in the hearings and questionnaires is that many employers, union officials, parents and children were not aware of current provisions in the child labor law or issues that necessitate enforcement of the law.

In an effort to increase awareness of these laws, the Department has joined with businesses, unions, educational institutions and youth advocacy groups and has produced a teacher guide called the " The Working Teenager" which is being used to instruct over 60,000 youths enrolled in the high school curriculum, "Introduction to Occupations" course on child labor laws and other worker protection laws of the State. This group will continue to work on additional curriculum guides.

Conclusion

Let me conclude by reiterating New York's position on child labor. We believe that going to school is a child's most important job. Ensuring that children have the opportunity to develop the skills we will require of them in the future is the most important obligation of government, both federal and state, business, labor and education.

At a time when employers are desperately searching for people to staff entry-level and part-time positions it is particularly tempting to ease child labor restrictions and create greater access to this labor pool. Indeed, some states throughout the country have chosen to do just that, to expand the number of hours children can work and relax regulations on occupations that may pose a threat to their health and safety.

In New York State, Governor Cuomo and I believe that such a strategy is shortsighted.

- It ignores our obligation to protect children from exploitation at the workplace.
- It ignores our obligation to children who must be able to communicate verbally and in writing, to apply knowledge of mathematics and science and to understand complex instructions in order to succeed in the job market of tomorrow.
- It ignores the increasing need for people who possess those abilities in our offices, factories, hospitals, stores, hotels and other places of business.

- It ignores the fact that the best place children can develop those skills is in school.

Instead of relying solely on child labor to fill these jobs, we in New York State believe that government, business, labor and education must look for creative and innovative ways to recruit women with children, older adults, veterans, handicapped individuals and college students.

New York's proposed legislation places the highest priority on protecting children and ensuring that their work experiences enhance rather than detract from their educational experience. In addition, the recommendations recognize the value of young workers to New York's businesses and provide government and employers with the flexibility to keep the law up-to-date with changes in the economy, technology and demographics.

The exploitation of children in the workplace is not just a problem facing New York, but a national problem. That is why we in New York are pleased to see that the federal government recognizes that this is a problem and has recently announced that they are undertaking a review of child labor laws on a national level. Let me take this opportunity to publicly offer the NYS Department of Labor's support and assistance to the federal government and any other states who may need assistance in designing legislation that places the nighest priority on the safety and education of our children.

I would like to introduce Dick Polsinello, my Director of Labor Standards who oversees the administration and enforcement of our Child Labor Laws in New York State.

Thank you for the opportunity to testify here this morning. I will be happy to answer any questions you may have.

Mr. **Lantos**. Thank you very much, Commissioner Hartnett for a remarkably valuable, comprehensive and analytical testimony. The State of New York is lucky to have you in this position. We salute you for your work.

We do have some questions but we would like to hold those for a minute.

We will next hear from Dr. Philip Landrigan of the American Academy of Pediatrics. And before I ask you to begin, let me just say how grateful this subcommittee is to you for your repeated times of appearing before us giving most valuable testimony. Your prepared statement will be entered into the record.

I think, before you begin, Congressman Shays would like to ask a question of Commissioner Hartnett because he will have to catch a plane. So, I am happy to recognize Congressman Shays.

Mr. **Shays**. I am going to be leaving at 2 o'clock. I have a 4:30 date with my 10-year-old daughter and I can't wait to get home and give her a hug.

I just wanted to say, Mr. Hartnett, in your statement at the end you are saying the obvious but it strikes me as a very important point and that is, as the job market tightens, and we know it is, then we are going to have to be more and more concerned with young children who potentially will be exploited in the workplace. It is something that, really, I just had not paid much attention to and I am happy you have addressed it.

I do apologize to the other witnesses. I wish I could be here. I know you are in good hands, though, great hands.

Thank you.

Mr. **Lantos**. Thank you, Congressman Shays.

Dr. Landrigan.

STATEMENT OF PHILIP LANDRIGAN, M.D., AMERICAM ACADAMY OF PEDIATRICS

Dr. **Landrigan**. Thank you, Mr. Chairman.

I am here today because I am both a pediatrician as well a board-certified specialist in occupational medicine. I am chief of community medicine, and also professor of pediatrics at the Mount Sinai School of Medicine in New York City.

I am here today representing the American Academy of Pediatrics, which is a professional organization representing 38,000 pediatricians across the United States, Canada, and throughout the Americas. I, personally, and the academy certainly want to express our appreciation to you, Mr. Chairman, and to your colleagues for having held this hearing. Most certainly, this hearing has served, in a very important way, to focus the attention of the Nation on the problem of child labor.

Childhood employment is widespread in the United States. In 1988, which is the most recent year for which I was able to obtain complete data, it was reported by the U.S. Department of Labor that approximately 4 million American children were legally employed. These include children working in the cities, children working in the suburbs, and children working in agriculture in the country.

In addition to those children who are legally employed, there is also a vast but poorly documented pool of illegally employed children. Again, these children are to be found in every sector of the country, from the hearts of our great cities to the depths of the countryside and also in the suburbs in between. No segment of the country, no sector of society is immune from child labor.

I would like to join with other witnesses whom you have heard today—most recently, Commissioner Hartnett—in agreeing that, of course, employment offers certain advantages to children. I worked myself when I was in high school and college, and I can attest to the fact that work, breeds responsibility, a sense of discipline. You learn something about the value of a dollar from having worked.

However, it is terribly important to emphasize the distinction that you yourself have made today between legal employment on the one hand and exploitation on the other. There is a vast difference between the two, and it is a difference which should not be blurred or confused.

Illegal employment, excessive work, exploitative work of children means that they will not learn. It means that they will fall asleep in school. It means that they will not be able to lift themselves up from a cycle of marginal jobs. It is the unusual child who can work 40 or 50 hours a week and also do well in school. Most such children will be working for the rest of their lives at no more than minimum wage.

Another dimension of child labor, which certainly has been emphasized to us today in dramatic form with the appearance of the parents and children that were here this morning, is the fact that child labor, most certainly, can lead to injury and illness in children.

I first heard, myself, about the potential for child labor to cause disease in children about 4 years ago. I was talking with colleagues at Montefiore Hospital in New York City, in the Bronx—specifically with Dr. Ernest Drucker at Montefiore—who told me about a shocking episode that had occurred in New York City. Two boys, one 14 and one 15 years old, had appeared to the emergency room at his hospital about 6 months apart. Each of these kids had amputated his left arm working on the same unguarded band saw in the same butcher shop cutting sides of beef.

This was the first time that it was impressed upon me that there might still exist a problem of child labor, that the Dickensian specter of child labor had reappeared in our country. It was at that time therefore that I convened the committee on environmental hazards at the American Academy of Pediatrics to examine this issue. It was that particular episode which triggered our thinking and got us churned up about child labor. We were extraordinarily gratified 2 years ago when, independently, without pushing from ourselves, Commissioner Tom Hartnett and Governor Cuomo in New York State declared this to be the decade of the child and stated that one of their specific goals in this endeavor would be to protect children in the workplace. Since that time, we have enjoyed a very close working relationship in New York City and New York State, working together on the problem.

I would like to give you some numbers, to give you a sense, from New York, of what is the size of the health problem in working children.

Last year, the New York State Worker's Compensation Board awarded 1,333 awards to children under the age of 18 years for work-related injury and illness. Ninety-nine of these awards were made to children under the age of 15 years. Five hundred and forty-one of the total—that is 41 percent—were for permanent disability to children, and there were six deaths. To mention a few of the specific injuries, there were amputations, there were burns, there were fractures, there were head injuries.

This is a fearsome toll, and most certainly, that number I have just cited of 1,300 is a substantial undercount of the true reality. You have heard today and you know from past experience that there are many barriers to people applying and being awarded worker's compensation. Many times, people just will not come forward, because they are illegally employed, or their immigration status is uncertain, because they are afraid they will lose their job, or because they simply do not know their rights.

I would speculate that the true total number of injuries is at least several times greater than the 1,300 that were officially recorded. These injuries have come from all sectors of the labor market in New York State. They have come from restaurants and fast food establishments. They have come from the garment industry. They have come from farms. No sector is immune.

I would also like to say a few words about the problem of industrial homework. I was very pleased that Mr. Schumer posed the question on industrial homework a short time ago to the representatives of the U.S. Department of Labor.

Beginning under the last administration, the Reagan administration, but continuing in this administration—vague comments about studying the problem notwithstanding—the U.S. Department of Labor has undertaken a concerted effort to relax the regulations pertaining to industrial homework in certain industrial sectors, most notably the garment industry.

Indeed, slightly over a year ago, in the present administration, not the previous one, the U.S. Department of Labor held field hearings in New York and in several other cities around the country to examine the issue of industrial homework with an eye to relaxing the regulations.

Now, industrial homework is described, frequently, in the language of free enterprise. Homework is described as a situation in which people can choose the conditions and the hours of their work. That is fine as far as it goes, and typically, we are treated to pictures of happy people in Vermont knitting sweaters in their homes to keep the winter at bay during the snow season, all of which is very nice. However, there is a dark side to child labor. This aspect has to be made known, and has, all too frequently, been ignored. This issue is the fact that when there is industrial homework, there is inevitably child labor. The two go hand in hand. You cannot separate them.

When work comes into the home and the family is poor, the children are drawn into the enterprise. This has been a truism among students of American labor for at least a half century, and the present administration, for all their good intentions, has to be made aware of this fact. They cannot say that it is under study. They have to recognize it. The American Academy of Pediatrics has strenuously opposed previously and, again, today, I oppose any proposal to liberalize the regulations on industrial homework. To liberalize them allows child labor to come in by the side door, and it is just not right.

Nevertheless, despite the challenges before us, I am encouraged by the fact that Secretary Dole has taken a strong stand against child labor. I certainly hope that the efforts of the past week will be continued into the future—if not constantly, at least periodically, and I would like to conclude by making a short series of specific recommendations for the better prevention of the child labor and its health hazards in the future.

First of all, there is clearly a need for better recordkeeping. We do not have good data in this country on the number of children who are working or on the industrial sectors in which they are employed. The best data that we have are the data that are collected every year, jointly by the Department of Labor and the Bureau of the Census, through a survey which is called the annual demographic supplement. Those data are good, but they are scant, and we only get a full picture of the problem every 10 years in the decennial census. That is not frequent enough for a field that moves as quickly as the labor market.

Second, there is clearly a need, as we have done in New York State, to educate parents, children, teachers, doctors, the public generally about child labor and about its hazards. Clearly, we need to review legislation. In my opinion, the proposals that are on the table to strengthen the existing laws to increase penalties, to increase criminal sanctions are all to the good. The notion that strict enforcement sends a message to those who do not get caught, or as the French would say, pour encourager les autres, is absolutely appropriate in this situation.

Finally, I cannot overstress the need for continuing strict enforcement. During the 6 years when I ran the occupational epidemiology program at the National Institute for Occupational Safety and Health, before I came to the Mount Sinai School of Medicine, it was clear to us, as we looked at our brothers in OSHA, that when they enforced a problem and they enforced it strictly, change came about, and when they did not enforce, problems perpetuated themselves.

Finally, I would like to conclude today by thanking the two groups who have funded the work which we are undertaking to study the problem of child labor in New York State—first of all, the William T. Grant Foundation, who have supported our research endeavors, and second, the National Institute for Occupational Safety and Health, who have generously awarded us a grant.

Thank you.

[The prepared statement of Dr. Landrigan follows:]

American Academy of Pediatrics

TESTIMONY

BEFORE THE

EMPLOYMENT AND HOUSING SUBCOMMITTEE
OF THE
HOUSE COMMITTEE ON GOVERNMENT OPERATIONS

ON THE

PROBLEMS OF CHILD LABOR

Presented by
Philip J. Landrigan, M.D., M.Sc., FAAP
March 16, 1990

Department of Government Liaison
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Good morning, Mr. Chairman. My name is Philip J. Landrigan, M.D. I am a pediatrician and an occupational physician. I am Professor and Chairman of the Department of Community Medicine and also Professor of Pediatrics at the Mount Sinai School of Medicine in New York City. Prior to my arrival at Mount Sinai five years ago, I served as Director of the Division of Surveillance, Hazard Evaluations and Field Studies of the National Institute for Occupational Safety and Health (NIOSH), and from 1984 to 1988 I was Chairman of the Committee on Environmental Hazards of the American Academy of Pediatrics.

I am here today on behalf of the American Academy of Pediatrics, an organization of 38,000 member pediatricians dedicated to promoting the health of infants, children, and adolescents.

The Academy wishes to express its appreciation to you, Mr. Chairman, and to the Subcommittee for holding this hearing on the problems of child labor and the exploitation of youth in the workplace.

Most Americans believe sweatshops can be found only in history books and that child labor is a problem experienced only in third world countries. However, the harsh reality is that here in the United States, sweatshops (defined as businesses that regularly violate wage laws, child labor law, safety and health laws) continue to thrive and child labor problems not only exist, but they are getting worse.

A recent GAO report released November 21, 1989 presents nationwide statistics showing that there were 150 percent more minors (under age 18) working in violation of the 52-year-old Fair Labor Standards Act in 1989 than in 1983 -- an increase from about 9,000 children in 1983 to over 22,500 today. This is the highest level since the law was enacted in 1938. As the workforce shrinks, younger and younger teenagers are being sought for recruitment in the workplace, often in direct violation of child labor laws.

Childhood employment is widespread in the United States. In 1988, approximately 4 million American children (under age 18 years) were gainfully employed. Legally employed children include the urban high school student working in a fast food establishment, the suburban 11-year-old delivering newspapers and the rural child working on a neighbor's farm. Illegal child labor is also widespread. Four-year-olds "help out" in factory sweatshops passing fabric between their mothers' sewing machines to increase the speed of piece work, while 14-year-olds work on machinery in belt and garment factories, bakeries and butcher shops. Children do industrial homework on school nights, and they pick vegetables in fields still wet with pesticides.

Federal labor laws prohibit most paid work for children under 14 years old to protect them from commercial exploitation as well as keep them in school, and the laws set strict limits on how much children under 16 can work after school and on weekends. The Fair Labor Standards Act was enacted in 1938 and remains the major federal legislation governing child labor today. The legislation established child labor standards, including lists of permitted work hours and prohibited occupations, and it raised the age limit for full-time work to 16. Agriculture employment was exempted from many provisions of the Fair Labor Standards Act. Thus, the employment of children in agriculture remains common and relatively under-regulated.

Under the Fair Labor Standards Act, employment in any hazardous nonagricultural occupation is prohibited for anyone less than 18 years old. Therefore, no one under age 18 may work in mining, logging, brick and tile manufacturing, roofing or excavating, as a helper on a vehicle or on power-driven machinery. Federal regulations used to implement the Fair Labor Standards Act specifically prohibit the use of meat processing machinery, delicatessen slicers, and supermarket box-crushers by anyone under age 18. In agriculture, where the restrictions are much less stringent, hazardous work is prohibited only until age 16, and all work on family farms is totally exempted.

While employment offers numerous advantages to children through development of responsibility, discipline and teamwork, child labor can also threaten education and development and lead to injury, illness and toxic exposure. One of the principal hazards of child labor is interference with school performance. Employed children often have inadequate time for school homework and increased fatigue on school days.

The risks of injury, illness, and toxic exposure associated with child labor appear to pose significant hazards to the health of our nation's children, but those hazards have only begun to be explored. Little information is available to characterize the rates of work-related injury among children.

Recently, the GAO released data showing that 33 states had reported a total of at least 48 minors killed and 128,000 others injured in work-related accidents during 1987 and 1988. As technology has changed, so have the hazards that are present in the workplace. Machinery has become more sophisticated, and substances used for cleaning, maintenance or machine operation may often be more toxic than those used in years past.

Children are known to experience a wide variety of toxic exposures at work, including formaldehyde and dyes in the garment industry, solvents in paint shops, pesticides in agriculture and lawn care, asbestos in building abatement, and benzene in pumping unleaded gasoline.

In an effort to develop more substantial data on the health risks of child labor, I have been working with a colleague Dr. Susan H. Pollack of the Mount Sinai Medical Center in Manhattan, studying the medical impact of child labor in New York State. This work is supported by grants from the

William T. Grant Foundation and the National Institute for Occupational Safety and Health. Our research includes examination of workers compensation and hospital discharge data to define trends in work-related injury to children and interviewing working children in an effort to determine the extent and severity of work-related disease and injury.

In 1986, the most recent year for which complete information is available, data from the New York State Worker's Compensation Board indicate that 1,333 awards for work-related injury and illness were made to children under the age of 18 years; 99 of these awards were to children under the age of 15 years; 541 (41 percent) of these awards to children were for permanent disability and 6 were for work-related deaths. In 1986, reported injuries to working children in New York State included chemical burns (12), thermal burns (108), lacerations (436), fractures (238), head injuries (109), amputations (21) and injuries of multiple body parts (87). This is a fearsome toll for children under the age of 18 years, and if these statistics are borne out across the nation, then the implications for the health of the children of the United States are very serious indeed.

Anecdotal reports describe injuries to children working on farms, in fast food restaurants and grocery stores, delivering pizzas, and working construction. Many children suffer minor lacerations while others have lost limbs in farm machinery accidents, suffocated in grain silos, sustained burns and been electrocuted in fast food restaurants, had arms amputated in butcher shops, become highway fatalities while delivering pizza under time pressure, and been crushed in improperly-built construction trench cave-ins. In December 1988, an 11-year-old New York boy was torn apart and crushed to death when he became entangled in a box-crusher in a Bronx supermarket.

Garment industry sweatshop work is an increasingly common source of employment for children in urban areas such as New York City. Hazardous conditions are created by blocked exit doors, combustible materials, inadequate ventilation, overloaded electrical supplies and exposed wires.

Child labor is not only a problem in the big cities, but in rural areas as well. Farmwork can result in lacerations, amputations and injuries from farm machinery and motor vehicles; suffocation in grain elevators and silos; and exposure to pesticides.

Adding to the problem of child labor are the health hazards associated with "industrial homework". Under the Reagan Administration, the Labor Department began liberalizing long-standing regulations limiting industrial homework. Although industrial homework is described frequently in the language of free enterprise as part of the freedom to choose one's place and time of work, nevertheless the dark side of industrial homework is that it leads all too easily to the work of children. Indeed, it is a truism among students of American labor that industrial homework can go on for long hours and occur under adverse conditions of light, space and ventilation. At the very least, such work impairs a child's development and education, and at the worst, it causes injury and illness. Moreover, enforcement is simply not a feasible option in the area of industrial homework. How can Occupational Safety and Health Administration (OSHA) inspectors or Wage and Hour inspectors realistically be expected to evaluate hundreds or thousands of home workplaces? It simply cannot be done. The Department of Labor acknowledged its inability to protect children from these hazards and declared industrial homework illegal in 1942. A decision to allow such work is not a step forward for children.

Despite the challenge before us, I'm encouraged by U.S. Labor Secretary Elizabeth Dole's recent statement promising "immediate action to step up enforcement" of the laws, larger penalties for violators and a review of all regulations governing children who work. It won't be easy, since the U.S. Labor Department's Wage and Hour Division is woefully understaffed and there are not enough OSHA inspectors today to adequately police even established factories in the United States. Nevertheless, the Secretary's bold and courageous words indicate a change in recent Administration attitude and a step in the direction necessary for the protection of America's children.

To help prevent injury and illness in working children in the United States we must:

- o Develop better data on the extent, nature and severity of child labor;
- o Educate our nation about the hazards of child labor;
- o Review existing laws and regulations to see if improvements can be made;
- o Discontinue federal efforts to relax certain labor regulations that protect children at work, particularly the regulations limiting industrial homework; and,
- o Enforce existing federal and state laws and regulations strictly, with adequate levels of inspection personnel.

Thank you for helping to focus renewed attention on the issue of child labor and for bringing a new understanding of the task before us. I shall be glad to answer any questions.

Mr. Lantos. Thank you.

We will next hear from Mr. Franklin Frazier. We are glad that you helped us out earlier, Mr. Frazier, and we are happy to recognize you now in your own right. I would like to ask you to get the mike very close to you because, otherwise, we will have trouble hearing you.

STATEMENT OF FRANKLIN FRAZIER, DIRECTOR OF EDUCATION AND EMPLOYMENT ISSUES, HUMAN RESOURCES DIVISION, GENERAL ACCOUNTING OFFICE

Mr. Frazier. Thank you, Mr. Chairman.

Much of my testimony has already been mentioned and I see no reason to repeat all of those numbers at this time. My full statement will say that, indeed, the number of violations has gone up.

I think I would like to make one point of clarification, if I may, and that is that when we talk about the number of illegally employed minors we sometimes treat it equal to the number of violations but, indeed, sometimes one minor may be involved in more than one violation. Thus, one child might be involved in an age violation as well as a hazardous order violation. Indeed, the 22,000 illegally employed minors represent more like 25,000 violations.

The other point that I would like to make that hasn't been mentioned in my testimony involves the difficulty that GAO has had in terms of determining the number of minors who have been injured. We could not find a national data base for that kind of information, so we went to the States. About 26 of the States reported to us that in 1988 there were about 31,000 minors who were injured.

Now, I want to point out here that we are talking about 26 States reporting 31,000 injured minors and that does not include some of our larger States like New York and California so that number is an undercount by a large magnitude.

The last thing that I would like to mention is that we did some work earlier for Congressman Schumer on sweatshops. I think that many of the people here have mentioned that sweatshops are pretty widespread in the United States. When we think of sweatshops in terms of employers who regularly commit multiple labor violations, they are pretty widespread throughout the country.

Finally, what I would like to say, Mr. Chairman, is that we have noted in the past, that the money penalties are insufficient as a deterrent to committing violations of the FLSA. We were encouraged to hear that the Department is going to take action to have OSHA and ESA work better together, and, hopefully, along with the States, to train their people to look for child labor violations when they are out looking for safety violations.

With that, I will conclude my statement.

[The prepared statement of Mr. Frazier follows:]

United States General Accounting Office

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Child Labor Violations and Sweatshops in the U.S.

Statement of
Franklin Frazier, Director of
Education and Employment Issues
Human Resources Division

Before the
Subcommittee on Employment and Housing
Committee on Government Operations
House of Representatives

SUMMARY OF TESTIMONY BY FRANKLIN FRAZIER ON CHILD LABOR VIOLATIONS AND SWEATSHOPS IN THE U.S.

The Fair Labor Standards Act of 1938 is the primary federal law regulating wages and working conditions of American workers, including children. To protect children from oppressive working conditions, the Act limits the hours that children under age 16 can work, sets minimum age standards for work in specified occupations, and restricts employment in specific hazardous occupations for youths under age 18. Since the mid-1980s, there has been an increase in violations of these child labor standards. In addition, there appears to be a widespread problem of "sweatshops"--workplaces that regularly violate both wage or child labor laws and workplace safety or health standards--in certain industries throughout the country.

Increase in the Number of Illegally Employed Minors Detected by Labor. The number of children found to be illegally employed reached almost 22,500 in 1989, from 9,200 in 1983, and remains above the levels reached during the late 1970s. Some reasons for the increase given by Labor officials include (1) low unemployment rates, which led to a shortage of adult workers in some areas, and (2) Labor's increased emphasis on child labor issues.

Increase in All Types of Federal Child Labor Violations. Some children are employed in violation of more than one child labor standard. Labor identified about 10,000 total federal child labor violations in FY 1983 and about 25,000 in FY 1989, an increase of about 150 percent. The greatest growth occurred in violations of the hours standard, tripling from about 5,000 in 1983 to over 15,000 in 1989. Violations of the federal minimum age standard and hazardous order restrictions roughly doubled over this period.

Most Violations Are in Retail Trade, Especially Restaurants. Between FY 1983 and FY 1989, over three-fourths of the detected child labor violations were found in retail trade. Within this sector, 42 percent of all violations were found in restaurants and 26 percent were detected in grocery stores.

Children Are Being Injured, Sometimes Fatally, at Work. Although available data make accurate estimations difficult, a significant number of children are injured at work each year. For 1988, 26 states provided us injury data showing that minors under age 18 suffered over 31,500 work-related injuries and illnesses. Further, our review of 29 child fatality cases inspected by OSHA in FY 1987 and FY 1988 showed that 10 cases probably involved both violations of safety or health standards that contributed to the fatality and violations of child labor laws.

Incidence of Federal Child Labor Violations Is Consistent With the Widespread Existence of Sweatshops. Federal and state enforcement officials believe "sweatshops" exist throughout the nation, especially in the restaurant, apparel, and meat processing industries.

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today to share with you some results from GAO's analysis of child labor and sweatshop working conditions in the United States. In particular, I will comment on the general trend in the number of federal child labor violations, the types of violations being reported, the industries where these violations are being found, and injuries and fatalities sustained by children at work. I will also discuss the highlights of our work on sweatshops. In 1988 and 1989, we issued reports on the problem of sweatshops, in response to an inquiry by Representative Charles E. Schumer. We are currently investigating the problem of child labor violations for Representative Don J. Pease, and we will provide further analyses on this issue in our final report to him in late April.
Our major points are as follows:

- Since FY 1983, there has been a general increase in the number of illegally employed minors detected by Labor. The current level remains far above the levels detected during the late 1970s. Some reasons for the increase given by Labor officials include (1) low unemployment rates, which led to a shortage of adult workers in some areas, and (2) Labor's increased emphasis on child labor issues.

- Detected child labor violations have increased about 150 percent since FY 1983. The increase in violations has occurred across all major types of child labor standards: hours, minimum age, and hazardous order restrictions.

- Most detected violations are found in retail trade and service industries. Within these sectors, grocery stores and restaurants are cited most often for violating federal child labor laws.

- Although inadequacies in available data make accurate estimations difficult, there is evidence that children are frequently the victims of injury or illness at work. Twenty-six states reported to us over 31,500 injuries or illnesses to minors under age 18 in FY 1988 alone.

- Sweatshops, defined here as workplaces that regularly violate both safety or health and wage or child labor laws, exist throughout the nation, and can be found in many industries.

Background

The Fair Labor Standards Act of 1938 (FLSA) is the primary federal law regulating the wages and working conditions of child workers. The Act limits the number of hours and times that children 14 and 15 years of age may work, especially during the school year, in nonagricultural industries (hours standard). For example, such minors are allowed to work only outside school hours and no more than 18 hours in a school week. In agriculture, children under age 16 are prohibited from working during school hours but there is no limit on the number of hours that can be worked.

In nonagricultural industries, the Act generally provides a basic minimum working age of 16, although minors who are 14 and 15 years old may work in specified occupations in retail, food service and certain other industries (minimum age standard). In agriculture, the basic minimum working age is also 16, although the law permits, under certain conditions, employment of minors as young as 10 years old.

In addition, the Act permits the Secretary of Labor to set a minimum age for working in occupations determined to be particularly hazardous (hazardous order standards). Exercising this authority, Labor maintains hazardous occupations orders in 17 nonagricultural occupation and industry areas. These orders prohibit children under the age of 18 from employment in certain occupations and industries. For example, youths under age 18 cannot operate meat slicing machines or regularly drive a car or truck to deliver food. In agriculture, certain activities, such as operating corn pickers, are prohibited for minors under age 16.[1]

Employers found in violation of any of these provisions may receive, among other sanctions, civil penalties of up to $1000 for each violation. The Act also provides, in the case of a willful violation, for a fine up to $10,000. In FY 1989, employers paid about $1.5 million in federal child labor penalties.

The Wage and Hour Division, a unit of Labor's Employment Standards Administration (ESA), is responsible for the administration and enforcement of federal child labor standards. Compliance officers inspect for child labor violations as part of their inspections for compliance with other FLSA provisions, such as minimum wage and overtime standards. In addition, the Division conducts specific child labor investigations in response to information, complaints, or referrals from sources such as newspapers, schools, and state agencies. In FY 1989, the agency had 990 compliance officers to perform all FLSA investigations, as well as to enforce other statutes for which it has responsibility.

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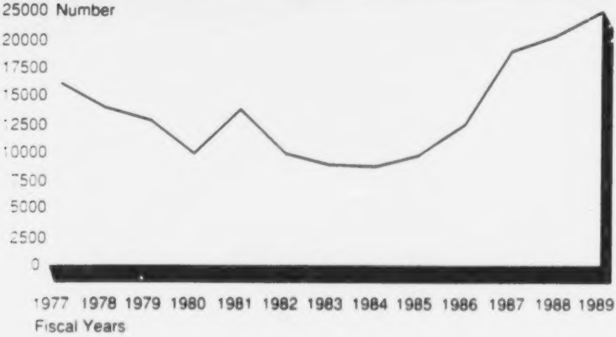
[1] In both agricultural and nonagricultural industries, children may be exempted from these orders for reasons such as participation in an apprenticeship or other training program.

Increase in illegally employed minors

In fiscal year 1989, Labor identified about 22,500 children under age 18 employed in violation of federal child labor laws, a 150 percent increase from 9,200 identified in 1983 and far above the peak of about 16,000 identified in 1977, as shown in the first figure. During this 1983-1989 period there was only a small increase in the number of youths working. The Bureau of Labor Statistics reported that 6,759,000 16- through 19-year-olds were employed in 1989, less than a 7 percent increase from the 6,342,000 in 1983. Labor officials mentioned several reasons that may account for the increase in detected violations including (1) low unemployment rates, which led to a shortage of adult workers in some areas,[2] and (2) Labor's increased emphasis on child labor issues.

GAO Detected Illegally Employed Minors, FY 1977-89



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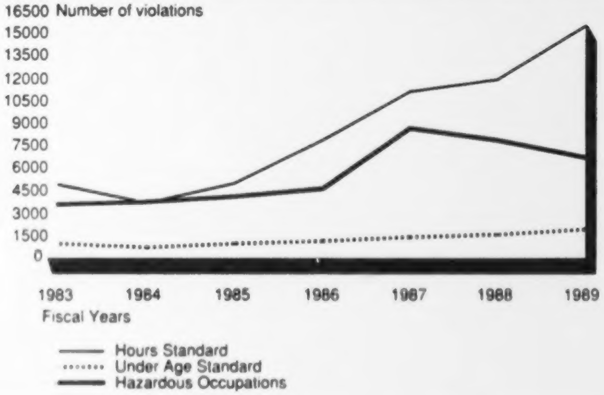
[2] Between 1983 and 1989, the total civilian unemployment rate declined from 9.6 percent to 5.3 percent.

Growth in detected federal child labor violations

The number of federal child labor violations has also grown substantially since the mid-1980s.[3] In FY 1983, total federal child labor violations were about 10,000, increasing to about 25,000 in FY 1989, an increase of about 150 percent.[4]

GAO Detected Child Labor Violations by Type, FY 1983-89



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[3] The number of detected violations is greater than the number of illegally employed minors because a minor may be employed in violation of more than one child labor standard.

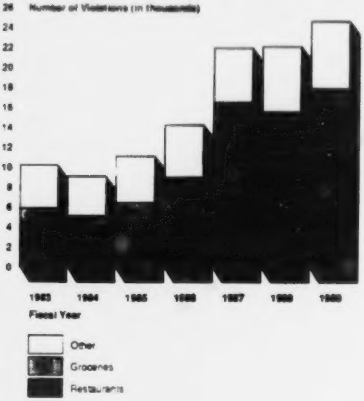
[4] A previous GAO report (The Fair Labor Standards Act: Enforcement of Child Labor Provisions in Massachusetts, GAO/HRD-88-54, April 28, 1988) focused on the FY 1983-1987 increase in violations in one federal region. To be consistent with this earlier study, we used FY 1983 as the base year for examining the national increase in violations.

Increases have occurred in violations of all the child labor standards, as shown in figure 2 above. Over the 7-year period, Labor identified about 50,000 violations of the hours standard, over 9,000 violations of the minimum age standard and almost 40,000 hazardous orders violations. The greatest growth occurred in violations of the hours standard. These violations increased from about 5,000 in 1983 to over 15,000 in 1989. Violations of federal minimum age and hazardous order standards roughly doubled over this period.

ESA finds most child labor violations in retail trade and the service industries. Businesses in the retail trade industry consistently were cited for about three-fourths of the violations identified by Labor between FY 1983 and 1989.

Federal child labor violations are concentrated within certain segments of the retail trade sector. Between FY 1983 and 1989, almost 70 percent of all violations were found in two retail trade industries: 42 percent in restaurants and 26 percent in grocery stores. (See fig. 3.)

GAO Detected Violations by Industry Subgroup. FY 1983-89



Children are being injured, sometimes fatally, at work

Although comprehensive data are difficult to obtain, there is evidence that children are frequently the victims of injuries in the workplace. In the absence of any national data base on work-related injuries and illnesses of children, we tried to obtain data directly from the states. However, the data provided by the states differs in the definition of an injury and the ages included in the statistics. For example, some states define an injury as one that causes the employee to miss one or more days of work, while other states base an injury on seven or more days of lost worktime.

Only 26 states could give us data for children under age 18. They reported to us over 31,500 work-related injuries and illnesses to minors under age 18 in FY 1988 alone. However, this number excluded injuries in some populous states, including California, Massachusetts, New York, and Ohio, and thus may account for less than half of the total number of child injuries in the workplace.

As for child worker deaths, we reviewed 29 cases of fatalities of children under age 18 inspected by the Occupational Safety and Health Administration (OSHA) in FY 1987 and FY 1988. Officials in the Wage and Hour Division identified 11 of these cases as probably involving at least one hazardous order violation. These deaths occurred in certain activities covered by the hazardous orders such as roofing, excavation, the use of power driven hoisting equipment, and woodworking machinery. In addition, 10 of these 11 cases also involved potential multiple labor law violations--a safety and health violation that OSHA believed contributed to the fatality as well as the apparent violation of child labor laws.

Incidence of child labor violations is consistent with the widespread existence of sweatshops

The growth in child labor violations is consistent with opinions of enforcement officials around the country that there is a widespread problem of multiple labor law violators, or "sweatshops." GAO has reported its findings concerning sweatshops in several previous reports and forums, so we will be brief here.[5]

In our earlier work, we defined a "sweatshop" as a business that regularly violated both (1) safety or health laws and (2) wage or child labor laws. Some sweatshops would, thus, involve child labor violations. However, child labor violations may also exist in the absence of safety or health violations. In other words, there is a partial but incomplete overlap between the two types of problems.

We surveyed over 100 federal and state officials nationwide who are responsible for enforcing laws relevant to working conditions and thus were likely to be knowledgeable about the question of sweatshops. These officials were regional administrators and district directors in the Wage and Hour Division, OSHA, and the Immigration and Naturalization Service (INS) and state labor department directors. In the opinions of the officials we surveyed, sweatshops existed throughout the United States. Thirty-five state labor department directors identified industries in their states in which either wage and child labor or safety and health violations were a problem, and seven identified industries in which they thought both kinds of violations were a problem. Three-fourths of the federal officials (40 of 53) said sweatshops were a problem in at least one industry in their regions.

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[5] U.S. General Accounting Office. "Sweatshops" in the U.S.: Opinions on Their Extent and Possible Enforcement Options (GAO/HRD-88-130BR, August 30, 1988).
U.S. General Accounting Office. "Sweatshops" in New York City: A Local Example of A Nationwide Problem (GAO/HRD-89-101BR, June 8, 1989).
William J. Gainer, Director of Education and Employment Issues, "Sweatshops" and Child Labor Violations: A Growing Problem in the United States, Presentation before the Capitol Hill Forum on the Exploitation of Children in the Workplace, November 21, 1989.

Although the federal officials said that apparel manufacturing and meat processing had a "serious problem" with sweatshops, the industry they most frequently cited as having a serious problem was restaurants. This is consistent with our observation that most child labor violations are found in retail trade and, in particular, restaurants.

In our previous work on sweatshops, we suggested that enforcement agencies might increase their effectiveness in detecting multiple labor law violations by improving their interagency working relationships. In some parts of the nation this is now occurring. For example, in January 1989 the New York Region Wage and Hour Division and OSHA offices reached a formal agreement to exchange the names of suspected violators of each other's laws and to train each agency's inspectors to identify situations that merit referral. Although Labor officials stated that they have encouraged officials in other regions to establish similar formal agreements, we are not aware of any others in place at this time. As another option for controlling multiple labor law violators, we reiterated our previous recommendation that Congress amend the Fair Labor Standards Act to provide penalties sufficient to deter violations of minimum wage, overtime and recording requirements.

This concludes my statement. I will be glad to answer any questions you may have.

Mr. Lantos. Thank you, Mr. Frazier. I appreciate it.

I wonder, if I might ask you, Ms. Golodner, to hold for a minute because Commissioner Hartnett will have to catch a plane. If I may ask a couple of questions and then give you all the time you need. Is that all right with you?

Ms. Golodner. That's fine.

Mr. Lantos. That's very kind of you.

Commissioner Hartnett, with so many demands on your limited compliance staff, how do you set priorities for them?

Mr. Hartnett. Well, we have approximately 100 wage and hour inspectors who are in the field on a daily basis and we have seen such an increase in the number of child labor violations that—the wage and hour inspectors have other matters of jurisdictions, but we have a policy in New York that child labor violations go at the top of the list so that when we receive a complaint, that complaint is processed and typically we are out at the work site where the complaint came in within 4 or 5 days of the time the complaint was received and there is an investigation.

Again, as a result of those findings, when we announce those findings, typically, we put out some kind of public announcement about the firm that was involved, the nature and extent of the violation.

For instance, last week we found a chain of stores that we felt that there was a disturbing similarily in the kinds of violations we were finding in several of the stores. We fined the parent company $8,000. We made all that public and within a week that company issued a new corporate policy to their local stores clearly directing those stores as to what their responsibilities were.

Mr. Lantos. What company was that?

Mr. Hartnett. The corporate company is Great American. They run a series of markets throughout the upstate New York area.

They issued a new corporate policy on employing teenagers. They also issued a policy that said that local store managers will be held accountable in their own performance as to the procedures they use. They came up with a couple of other kind of unique approaches to it. They are by no means out of the woods in terms of our own dealings with them but I think it reinforces, perhaps, some of the points that you made earlier in terms of the notoriety associated with some of this.

Mr. Lantos. Commissioner, may I ask you, in view of today's testimony by some of our witnesses, will you be giving special attention to Rock Bottom stores or have you already been following their activities?

Mr. Hartnett. We have already done a thorough investigation of Rock Bottom. Part of the process of getting our law changed in New York, there were some public hearings in New York and at one of the first public hearings, the matter of Rock Bottom was brought to our attention and it is being investigated and we have a number of citations in process right now with them.

Mr. Lantos. Do you feel that the emphasis that I place on adverse publicity is a reasonable emphasis?

Mr. Hartnett. Yes, I do.

Mr. Lantos. I am not suggesting excluding other measures but would you agree that for particularly large statewide or nationwide enterprises adverse publicity is a greater concern than financial penalties?

Mr. Hartnett. It may well be. I think we saw some of that in the case that I just brought up. We have had formal and informal discussions with some of the people associated with that firm and they have indicated to us that they want to get on the right side of the law and they want to do it quickly. I am not sure all of that would have happened with just simply a $2,000 or $3,000 fine, to be perfectly honest.

Mr. Lantos. Commissioner, let me say that under your leadership and Governor Cuomo's leadership, the people of New York are well served with their labor department, particularly with the question of enforcing child labor laws.

I want to thank you and your associate for coming and I apologize for having kept you so long. I hope you make your plane.

Mr. Hartnett. Thank you.

Again, my offer that if there is anything can do to provide additional information we will be happy to.

Mr. Lantos. We will call on you.

If I may ask just a couple of questions of you, Dr. Landrigan. The American Academy of Pediatrics, the organization you represent, has done an outstanding job in this field. What additional efforts can or should physicians, in general, be making to combat the problem of illegal child labor?

Dr. Landrigan. Well, I think there are several. One fundamental problem is that most physicians, at least before today, were not aware of the resurgence of child labor in the United States. I think hearings, such as you have held today and the activities of the Labor Department over the past week will go a long way to change that situation. If doctors are aware of the resurgence of child labor and if they are aware of the hazards that follow the increased entry of children into the workplace, they are going to be looking for problems. And I think this increased awareness may play itself out in several ways.

First of all, I would hope that as a result of this increased awareness and, perhaps, increased awareness aided and abetted by some changes in the regulations, the doctors will be a bit more vigorous in signing work permits for youngsters before they go into the workplace. I think too often when a medical certificate is required on those permits it has been very pro forma. I would like to see more doctors asking questions of youngsters and their parents asking what kind of work are you proposing to do, and if they hear that a child is going to be working long hours on dangerous machinery, encouraging the child not to undertake such work, pointing out to the child that it is a hazard to health. Just as pediatricians learn how to do throat cultures on children with red throats, we need to be more vigorous and more thorough in warning children about the health hazards of the workplace.

Second, something that I believe was mentioned earlier today by Mr. Schumer and this is the notion that when a doctor sees a child who has been injured in the workplace there ought to be a legally binding requirement on the examining physician, or the nurse, or whoever is the primary health provider, to report that injury to the health authorities just as a gunshot wound would be reported. I think this would be an excellent idea and would certainly help with reporting. It would, at least, go some of the distance toward repairing the current inadequacies in the recordkeeping systems.

Finally, on a broader scale, embracing child labor but moving beyond it, a major problem in this country is that most physicians and, indeed, most health providers are not very knowledgeable about the hazards of the workplace in general. The average American medical student receives only 4 hours of training in occupational medicine in the 4 years of medical school. That's not very much.

Mr. LANTOS. Four hours?

Dr. LANDRIGAN. I mean 4 actual hours, not credit hours.

Mr. LANTOS. Yes. I understand.

Dr. LANDRIGAN. We, the members of the academic arm of the medical profession, need to change that situation so that our graduates will know about the hazards of slicers and will know that asbestos causes lung cancer, and will know the hazards of solvents on the central nervous system so that we can properly ask questions of our patients. We have got some work cut out for us. I think what you have done today, Mr. Chairman, will assist us in that process.

Mr. LANTOS. Dr. Landrigan, again, let me thank you very much and we hope to have you back for another hearing on another subject.

Dr. LANDRIGAN. Thank you very much.

Mr. LANTOS. I hope you make your plane.

It was a pleasure seeing you.

We will now hear from Ms. Linda Golodner, chair of the Child Labor Coalition.

And, again, I want to thank you for being so gracious and so patient. Your prepared testimony will be entered in the record and you may proceed any way you choose.

STATEMENT OF LINDA GOLODNER, CHAIR, COALITION ON CHILD LABOR

Ms. GOLODNER. Thank you, Mr. Chairman; I am here in behalf of several organizations.

I am executive director of the National Consumers League. The consumers league was founded 91 years ago, because people were concerned about sweatshops and child labor, and I am here today to talk about sweatshops and child labor.

I want to commend you and your staff, especially Joy Simonson, and other Members of Congress, who have the foresight in reviewing the child labor laws and in the concern about the role of the Department of Labor in enforcing those laws.

In addition to directing the league, I am here today as cochair of a newly formed Coalition on Child Labor. My fellow cochairs are Bill Goold of Congressman Pease's staff and the International Labor Rights Education and Research Fund, and Bill Treanor of the American Youthwork Center.

This coalition was formed in response to a forum that was held on Capitol Hill in November on the exploitation of children in the workplace. It is concerned about both international and domestic child labor issues.

The coalition's first emphasis is on ending exploitation in the United States, however, both because we believe we will be most effective in our own Nation and because we believe our Nation can and should serve as an example of enlightened treatment of children.

Health and safety issues are a major emphasis of this group, and we have heard many anecdotal stories this morning and other statistics that are frightening. There are also statistics of agricultural accidents that have not been mentioned. There is a study from the Mayo Clinic in Minnesota which indicates that children under 16 suffer 23,000 injuries and that there are 300 deaths in agriculture each year. We are particularly concerned about the lack of information on the effect on children of pesticides and other hazardous substances in the workplace.

I think that you know of statistics of migrant workers, that their average lifespan is 49 years, compared to 74 years for the average American. Death rate is much higher for young people working in the fields in agriculture. Pesticide poisoning is one of the most serious problems affecting farm workers, and from the age of 14, any child can work in the field: 12 and 13 year olds also can work.

I think it would be appropriate for this committee to inquire of the Department of Labor about an interagency agreement between the Department of Labor and the Environmental Protection Agency that was entered into early in 1980. As a result of this agreement, a study was conducted for 5 years to determine possible acute and chronic effects of pesticides on youth under 16 employed in agriculture. It is our understanding that $4.5 million was spent on this study, and the results have not been published, and in fact, the results are still sitting in boxes at the department.

Mr. LANTOS. We will definitely do so, and I am very grateful you brought this to my attention. I was entirely unaware of this.

Ms. GOLDNER. I think that we all know that children are employed in agriculture and that we should be able to warn families about the dangers of pesticides.

Violations, obviously, are increasing, but I think they are increasing because there has been lack of enforcement. The numbers do not show a clear picture, as has been mentioned this afternoon.

I have been fortunate enough to be able to talk to some compliance officers around the United States. At this point, I want to mention that there are some very dedicated career people at the Department of Labor who work not only here in Washington but around the United States, who are willing to give information and talk about the problems in child labor, because they are very concerned. In talking with some compliance officers, they talk about the backlog of cases.

For instance, one mentioned that a case came in October, it was assigned in January, and then in March, it was investigated. Officers said they could use twice as much help.

Some other comments were: "I wish I could go around and talk to rotary clubs and PTA's and schools and let them know what the law is. We do not even scrape the surface."

"In most grocery stores, you will see three or four violations every time you go in. Parents think that they can give a mom-and-pop permission slip, and then it is OK that their kids can work."

The sting operations this week should not be a one-time show of strength by the Department. This committee should encourage the cooperation of all agencies. It has been shown to be effective, in States like New York, where there are cooperative efforts of local, State, and Federal agencies. If health departments can check on cockroaches, they certainly can check on child labor violations. In New York State the labor department also works with the local fire department, which checks on fire regulations. There could be cooperation of all agencies.

Obviously, there have to be more compliance officers to handle all these cases, and of course, we would encourage more funding for compliance officers, at least twice the number that exist today.

Another area of weak enforcement is the increased use of the conciliation technique, which I do not think was mentioned today. This is defined in the field operator's handbook. Conciliation is a technique which provides fast service to a complainant by limiting the scope of the compliance action to a single employee or a single minor violation. It is typically done by telephone, rather than a site visit.

The proportion of complaints conciliated rose from 33 percent in fiscal year 1983 to 54 percent in fiscal year 1987. I do not have any of the latest numbers, but I am sure you can also get that from the department.

The problem in using this method in child labor cases, I think it has been pointed out, is that, according to some compliance officers, you usually find more than one violation. You find more than one kid working, and if investigated by phone for a single complaint, you obviously are not going to see the other violations of child labor.

In addition, sometimes officers are evaluated by their "return" or the number of cases they can do in a week. It takes much more time, of course, to go to check on a violation at the site, rather than use the telephone. We have also found that most of these conciliations are done in service industries and retail industries, where young people are employed.

It has been mentioned today, also, that the total number of American youth available in the work force is shrinking, and therefore, we are seeing employers dipping down to the 14 and 15 year olds to work. We are seeing that in statistics we are getting back from States on the number of work permits that are given.

For instance, in the State of Hawaii, the number of certificates given to 14 and 15 year olds have escalated 300 percent in the last 5 years.

Other States in addition to New York are also reviewing their labor laws. They are looking at the relationship between dropout rate and employment. They are also reviewing work permit procedures, and some may be requiring the parent or a physician to approve of those work permits. States are also considering requiring 16 and 17 year olds to have work permits.

The Department of Labor should have the same concern that we are seeing in the States.

The National Consumers League is also privileged to serve on the U.S. Department of Labor Child Labor Advisory Committee. I chair that committee, and quite frankly, I got quite angry in listening to the discussions today, when I know that the minutes of those meetings, with recommendations, sat on desks at the Department. There were 52 recommendations, in all, that went to the Department from the Child Labor Advisory Committee.

Mr. LANTOS. When was that report submitted?

Ms. GOLODNER. We were appointed in January 1988. In March 1988, we gave our first recommendations. There were a limited number of recommendations in that first report.

In October 1988, there was a comprehensive report given to the Department having to do with HO-2, transportation; HO-10, which is the hazardous order regarding slicing machines; and regulation 3 on the number of hours a 14 and 15 year old can work. We recommended some prohibited occupations—for instance, door-to-door sales, which was an important one.

Then, in the next year, in 1989, there were some additional recommendations given with regard to young people, 14 and 15 year olds, using fryers and other baking and cooking equipment.

There were several recommendations given, and quite frankly, the advisory committee was very frustrated in having spent a lot of time developing these recommendations and that nothing was done.

Mr. LANTOS. Has the advisory committee ever met with Secretary Dole?

Ms. GOLODNER. No, it has not.

Mr. LANTOS. Have you requested a meeting with Secretary Dole?

Ms. GOLODNER. No, we have not.

Mr. LANTOS. I would suggest you request a meeting with her, because she has exhibited what I believe to be genuine interest in the subject.

Ms. GOLODNER. I think that would be a very good approach, and I think that I will——

Mr. LANTOS. I would be very happy to encourage her, if necessary, to meet with you. I think that would be extremely useful.

Ms. GOLODNER. I wanted you to know that the Department did start to move on some of the recommendations this last February. Perhaps at first they were taken aback that the advisory committee looked at strengthening the law and not extending hours. This committee was appointed in the last administration, so you know the makeup of it is rather diverse. All the people on the committee, no matter where they come from or what their politics are, are concerned about advocating for children.

In reviewing the law, I felt it important to go back to the original intent of the law, in some cases, especially with regard to the number of hours established for 14 and 15 year olds. In 1939, almost all the testimony from that hearing referred to a maximum 8-hour day for combined school and work hours for youth and emphasized that there is no justification in permitting the employment of children for hours longer than hours which we apply to adult workers. It was as true then as it is today that a child that works has a certain number of hours in school, a certain number of hours at work, if they are employed, and then the other hours are for homework or sleep, and obviously, the sleep and the homework are the ones that do not get the attention they should get.

A University of Michigan survey of high school seniors in 1987 found that one-third of senior boys and one-quarter of senior girls worked more than 20 hours a week after school, and they were less involved with school, family, and peers and had more cynical attitudes toward work.

An important statistic from that study, is 82.5 percent cited that the reasons for working was for extra spending money and for luxury items. We do hear arguments that maybe these children really need to work. There are some people that do need to work and some young people that do have to supplement family income, but the majority are working for luxury items.

Just one more point I wanted to make and it has been made by a couple of people today, that any discussion about child labor is not complete without the mention of the most vulnerable of our youth, those that come from immigrant families and from poor families that do not know the law and are ignorant of the law. They work in sweatshops, and this is in California; it is in Illinois; it is in New York. Children often work side by side with their parents. These are the most grievous examples of exploitation.

I did mention earlier in the testimony that the league has had a long history, and I want to give you one quote from Eleanor Roosevelt, who had worked with the league. "I was 18 years old when I first went with the Consumers League into sweatshops in New York City."—That was our strikeforce at the time—"For the first time in my life, I saw conditions I would not have believed existed, women and children working in dark, crowded, dirty quarters, toiling, I was told, all day long and way into the night to earn a few pennies. I can never forget those conditions."

If you look in the present report from the GAO, the same condition exists: "On the 12th floor of 333 West 39th Street, a 15-year-old Mexican immigrant boy works in conditions considered barbaric half a century ago. He could be found by his table sewing pleats into cheap, white chiffon skirts. He hopes to make a dollar an hour. The temperature inside is 8 degrees."

I just do not understand how we can ignore what still exists. It is a sad commentary on our society that the conditions experienced by Eleanor Roosevelt still exist and are documented in a task force study.

I would be glad to answer any questions.

[The prepared statement of Ms. Golodner follows:]

National
Consumers
League
Founded 1899

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Linda F Golodner Executive Director

TESTIMONY OF LINDA GOLODNER

EXECUTIVE DIRECTOR, NATIONAL CONSUMERS LEAGUE

BEFORE THE EMPLOYMENT AND HOUSING SUBCOMMITTEE

HOUSE COMMITTEE ON GOVERNMENT OPERATIONS

REGARDING

CHILD LABOR AND EXPLOITATION OF YOUTH IN THE WORKPLACE

MARCH 16, 1990

Officers: Robert R. Nathan, Honorary Chairman · **Esther Peterson**, Honorary President · Jack Blum, President ·
Esther Shapiro, Vice President · **Bert Seidman**, Vice President · Ruth E. Kobell, Secretary · Virginia Klutts, Treasurer

TESTIMONY OF LINDA GOLODNER
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Chairman Lantos and members of the Subcommittee, my name is Linda Golodner. I am executive director of the National Consumers League, a private nonprofit membership organization founded in 1899 to represent consumers in workplace and marketplace issues. Members of the League come from every state in the nation and from all walks of life -- from nurses to students; steelworkers to senior citizens, farmers, retirees, and even legislators. Ninety-one years ago the League was founded by people concerned about sweatshops and child labor. I come before you today concerned about sweatshops and child labor.

I want to commend you and your staff and other members of Congress for your foresight in reviewing our child labor laws and for your concern about the role of the Department of Labor in enforcing those laws.

The American public may think that exploiting children in the workplace is a thing of the past. Unfortuntely, it is not. From the sweatshops in New York to the fast food restaurants in California, more and more young people are working -- and often illegally. As the workforce shrinks, younger teenagers are being sought after, often in violation of our child labor laws.

In addition to directing the National Consumers League, I am here today as a co-chair of a newly formed Coalition on Child Labor. My fellow co-chairs are Bill Goold of the International Labor Rights Education & Research Fund and Bill Treanor of the American Youth Work Center. This coalition was formed in response to concern expressed in a day-long forum on Capitol Hill in November on exploitation of children in the workplace. Its concerns are global; the Child Labor Coalition believes that children are the promise of all societies and recognizes that exploitation of children in the labor market, both in the United States and throughout the world, represents a threat to their health and well being. The Coalition also believes that international labor standards and domestic child labor laws meant to protect children from exploitation are poorly enforced or ignored.

The purpose of the Coalition is to educate the public about exploitation of children; to strengthen protections that exist now; and to work for better enforcement of current laws and regulations that protect children from exploitation. The Coalition also seeks to influence public opinion and policy on child labor and to increase understanding and knowledge about the impact of work on children's health and the quality of thier lives.

The Coalition's first emphasis is on ending exploitation in the United States, both because we believe we will be most effective in our own nation, and because we believe our nation can and should serve as an example of enlightened treatment of children.

Health and safety issues are a major emphasis of this coalition. One of the member groups, the American Academy of Pediatrics, indicates that in preliminary findings of a study on working children that thousands are injured each year on the job. Injury due to accident is in fact one of the primary causes of death for children and young teenagers. Acecdotal information suggests many more children are injured than we know, including those who are employed on farms -- a study from Minnesota indicates that children under 16 suffer 23,000 injuries and that there are 300 deaths in agriculture each year. There are also innumerable reports of children injured in fast food restaurants, as delivery workers, in construction, as casual laborers and in grocery stores. There is a lack of statistical data available on these injuries. We are particularly concerned about the lack of information on the effect on children of pesticides and other hazardous substances in the workplace.

According to Rural Opportunities, Inc., a private nonprofit multistate organization serving migrant and seasonal workers, the average life span for migrant workers is 49 years compared to 74 years for the average American; the infant and maternal death rate for migrant farmworkers is 2 1/2 times higher than the national average, and pesticide poisoning is one of the most serious problems affecting farmworkers. The Food and Drug Administration has estimated that as many as 1000 deaths occur from exposure to pesticides and another 9000 agricultural workers are injured from exposure to pesticides. From the age of 14 any child can work in the fields without restrictions and 12 and 13 year olds can harvest the same crops that migrant adult workers harvest with just a note from their parents.

It would be appropriate for this subcommittee to inquire of the Department of Labor about an interagency agreement between the DOL and the Environmental Protection Agency Office of Pesticide Programs entered into on April 1, 1980. As a result of this agreement an epidemiologic study was conducted for five years to determine possible acute and chronic effects of pesticides on youth under 16 employed in agriculture. It is our understanding that $4.5 million was spent on this study and that the results have not been published and in fact the study still is "sitting in boxes" at the Department. Children are employed in agriculture -- they are working for their parents and for employers as helpers on a neighbor's farm or working as migratory laborers with their families. Some of these youngsters are 12 and 13 -- and even younger. Isn't it time that both the EPA and the DOL review the data they have collected, make recommendations and warn farm families about the dangers of pesticides?

Violations of our child labor laws is increasing significantly. A General Accounting Office study released in April of 1988 indicated an increase of 112% from 1983 to 1987. Statistics from that Office released in November of last year showed a 250% increase. The League is seeking state-by-state statistics for the past five years from each Department of Labor.

Unfortunately, these numbers do not present a clear picture. A very large increase in the City of New York is a result of a special task force investigating sweatshops, where they found a significant number of youths working. Officials from Departments of Labor in several states have indicated that if they were to make "surprise visits" to shopping centers or to the many fast food establishments, the number of violations would far exceed the figures they now have. Compliance officers in almost every state only investigate complaints. And in many states, the backlog of cases and the lack of personnel may mean weeks and even months of delay. In a recent discussion with a compliance officer it was reported that a complaint received in October was assigned in January and investigated in March. The officer said that they could use twice as much help. Some other comments: "I wish I could go around to talk to Rotary Clubs and to PTA's and to schools to let them know what the law is." "We don't even scrape the surface. In most grocery stores you see three or four violations every time you go in." Parents think that they can give 'Mom and Dad' permission slips and then it's okay that the kids can work."

Rather than responding only to complaints, the Department should have a more aggressive approach to enforcment by making unannounced visits to the workplace. The "sting" operation of this week should not be a one-time show of strength by the Department. This Committee should encourage the cooperation of all agencies -- local, state, and federal -- to report violations when they are observed or suspected. Why is it that the Department of Health can make random visits to restaurants to check up on sanitation standards, and personnel is not available to make random visits to check up on child labor violations? Couldn't, for example, health inspectors let the Department of Labor know if they see children working when they are checking for cockroaches in restaurants? Local fire departments inspect all of these establishments for violations; they also could be recruited to let the Department know of violations they see at the workplace.

Another area of weak enforcement is the increased use of the conciliation technique. As defined by the Field Operations Handbook, "A conciliation is a technique which provides fast service to a complainant by limiting the scope of the compliance action to a single employee or a single, minor violation." The conciliation is typically conducted by telephone rather than a site visit. The proportion of complaints conciliated rose from 33 percent in fiscal year 1983 to 54 percent in fiscal year 1987. The problem in using this method in child labor cases is that, according to some compliance officers, usually more than one violation is found when investigating a complaint and several violations therefore would be missed. And because these officers sometimes are evaluated by the "return" -- the number of cases they can handle in a certain period of time -- it is a much faster "return" to handle a case by conciliation. Unfortunately, the distribution of conciliations by industry group are heavily in those in which one finds child labor -- nearly a third involve retail employers and another third in the service sector. Over half of the conciliations involve eating and drinking places, grocery stores, and gasoline service stations. I think it would be appropriate for this committee to examine recent data from the Department on this technique of enforcement.

Unless there is serious enforcement of the law, the picture will be even bleaker because of the changing demographics of our workforce.

The number of American youth is shrinking dramatically. Between 1980 and 1996, our youth population, ages 15 - 24, is expected to fall 21 percent, from approximately 43 to 34 million. These decreasing numbers will significantly alter the characteristics of the labor pool. Employers will be tempted to dip into the younger labor force and to risk penalties by working young people longer hours and in jobs that may be hazardous. This trend can be observed in reviewing statistics from several states which indicate an increase in the number of work permits issued to 14- and 15-year olds.

An example of this is in the data we have received from the the State of Hawaii which shows an increase in the number of certificates issued for 14- and 15-year olds escalate 300 percent in the last 5 years. Many State Departments of Labor and Legislatures have shown an increased concern about child labor enforcement and violations. You have heard from New York State today; others are studying the impact of employment on the school drop-out rates; some are reviewing their work permit procedures; still others are developing public information programs to educate parents and youth as well as employers about child labor laws. It is time that the U. S. Department of Labor showed the same concern.

The National Consumers League is also privileged to serve on the U. S. Department of Labor Child Labor Advisory Committee. I represent the League on this committee and am its chairperson. It was appointed by the Secretary of Labor in 1988 to review the child labor provisions of the Fair Labor Standards Act and to recommend clarification and changes in the law that we determined necessary. A long list of recommendations have been submitted to the Department regarding changes in the hazardous occupation orders and with regard to Regulation 3, the section dealing with 14- and 15-year olds. These recommendations are listed in the minutes of the Committee of March and October of 1988 and in May of 1989. The following are some examples of the more than fifty recommendations of the Committee:

1. Retain the current Regulation No. 3 provisions concerning the hours and time of work for 14- and 15-year olds with no changes. The rationale for this recommendation is that the negative impact of extending the hours for such youth clearly outweighs the positive factors. All 14- and 15-year olds are not able to function safely and effectively within the limits of existing regulations, and there is no indication that extending the hours of work would be of benefit to these children. The committee reinforced that the prime responsibility for this age group should be toward their educational and developmental needs.

2. There should be no exception to the extension of daily, weekly, or evening hours for 14- and 15-year old batboys and batgirls (in professional baseball). The rationale for this recommendation is that the negative impact of extending the hours for such youth outweighed the positive aspects. The committee also recommended that the duties of batboys and batgirls be restricted for 14- and 15-year olds to the traditional duties of distributing and collecting field

equipment, running errands, and supply the umpire with equipment. The rationale for this recommendation is that certain duties required by some baseball clubs such as unrolling tarps, cleaning and repairing equipment, cleaning (including the dugout, club house and lavatories), and laundering, could increase the exposure of such youth to injury. The committee further recommended that there be no extension of the daily, weekly or evening hours for 14- and 15-year olds in any athletic occupations. The rationale for this was that the negative findings with respect to baseball are amplified by the fact that games in other sports are scheduled in weeks when school is in session.

3. Hazardous Occupation Order 10 (meat slicers order) should be modified so that it is clear that restaurants and fast food establishments are included within the definition of retail and wholesale service establishments. The rationale of the committee is based on the proliferation of such establishments and the widespread employment of young people.

4. Hazardous Occupation Order 10 should be clarified so that machines which are listed as particularly hazardous will be prohibited for use by minors under 18 years of age regardless of the type of products which are being processed. These products would include various types of animal, vegetable and dairy products which are being sliced or otherwise processed by the equipment. The rationale of the committee is that no matter what is being sliced it is the machine that is hazardous and not the product.

5. The language be clarified in HO 10 indicating that individuals under 18 shall not clean the machines regardless of who has disassembled the machine. The rationale for this clarification is that the Wage and Hour Division's present enforcement policy provides that minors may clean the machinery covered by HO 10 if the machinery is first disassembled by an adult. This enforcement policy is contrary to the Order which prohibits cleaning, oiling and disassembly by a minor.

6. That door-to-door sales be prohibited for 14- and 15-year olds. The rationale for this recommendation is that the occupation is inherently violative of child labor standards.

7. That all cooking occupations be prohibited for 14- and 15-year olds. The committee's rationale for this recommendation is that the prohibition will ensure greater safety while at the same time continuing to allow several other job functions in the retail food service industry.

8. That there be no exception granted for the employment of 16- and 17-year olds minors in the operation, cleaning, assembling, or disassembling, etc., of any power-driven bakery machine or equipment wherever used or for whatever purpose. The rationale is based on the statistics and injury reports for 16- and 17-year olds, which include some serious injuries and deaths, and the lack of safety devices on power-driven bakery equipment which had dominated the industry for 25 years or longer.

9. That any exceptions from Hazardous Occupation Order 2 (transportation and driving) would not apply to 16-year olds. The rationale for this recommendation is that based on the number of accidents for this age group, that young people did not have the experience needed to drive in their employment. In most states, 16 is the age at which one can drive.

As you can determine from these recommendations, the Department of Labor Child Labor Advisory Committee has taken its job seriously. Unfortunately, many of these recommendations took months to move from one desk to another at the Department. The committee at times felt that all their work reviewing these provisions would not be acted upon by the Department. However, soon after the present Acting Administrator of the Wage and Hour Division took over her job, there was some action by the Department to review and make comments on the recommendations of the Committee. The most recent report from the Department is that some of the proposals will be implemented and/or go through the rule making process. The sad thing is that it has taken over a year for a response from the Department to the Advisory Committee and the losers have been the young people working in hazardous occupations. I know that I can speak for the rest of the Advisory Committee in our hope that the Department will move swiftly in the rule making process.

It is also the wish of the Advisory Committee to review and make recommendations in many areas not now covered by the Act; for example, poultry and seafood industries; toxic substances used in the workplace; dairy industry, and the dry cleaning industry. We are also interested in developing some recommendations for children working in agriculture.

In reviewing child labor laws it is important to understand the intent of the originators of the law. And in my capacity of advising the U. S. Department of Labor on possible change in the Fair Labor Standards Act, I reviewed excerpts from the Official Report of Proceedings Before the Children's Bureau of the Department of Labor, a hearing conducted in February of 1939. Almost all testimony from that hearing referred to a maximum 8-hour day for combined school and work hours for youth and emphasized that there was no justification in permitting the employment of children for hours longer than hours which have been in application to adult workers.

It was as true when these laws were written as it is today that out of the 24 hours in a day must come time for sleep, school, school homework and employment. If a child carries a schedule that does not permit a normal balance between these various factors, he or she either cuts down on hours of sleep or on school homework. The other main factors -- the hours spent in school and the hours spent at work -- cannot so easily be reduced unless the child leaves school or gives up employment.

A University of Michigan survey of high school seniors in 1987 found that up to one-third of senior boys and one-quarter of senior girls work more than 20 hours a week after school. They were less involved with school, family and peers and had more cynical attitudes about work. 82.5% cited that the reasons for working was for extra spending money and for luxury items.

At a time of an education crisis, when our nation may be losing its edge over the rest of the world, we cannot afford to have students not taking full advantage of educational opportunities.

It was mentioned earlier in my testimony that the Child Labor Coalition is concerned with both international and domestic child labor and that the United States should be an example for the rest of the world in our concern for our youth. We hope that the Department is indeed serious about its renewed commitment to enforcing and strengthening the child labor laws and that Secretary Dole will be encouraged to build on international cooperative support from multinationals, employer and labor federations, health associations, human rights and child advocacy organizations and our international groups to address global child labor concerns.

Any discussion about child labor is not complete without mention of the most vulnerable of our youth. I am referring to those who are ignorant of the law and who are exploited by their employers in the sweatshops in the garment districts in New York and Los Angeles, Miami, Chicago, and other cities and towns dispersed throughout the nation. Workers are often from immigrant and poor families and sometimes work side-by-side with their parents in the factory and at home. The U. S. Department of Labor has sought to legalize industrial homework in the women's apparel industry. Homework in the garment industry goes hand-in-hand with sweatshop employment. Families including children will work in factories during the day and take home garments to sew at night. This is one of the most grievous examples of exploitation of children in the workplace.

I mentioned earlier in my testimony that the League has a long history of working on child labor issues. One of the more illustrious members of the League was Eleanor Roosevelt. I would like to quote from her: "I was eighteen years old when I first went for the Consumers League into sweatshops in New York City...For the first time in my life I saw conditions I would not have believed existed -- women and children working in dark, crowded, dirty quarters, toiling, I was told, all day long and way into the night, to earn a few pennies, carding safety pins or making little things of feathers. These conditions I can never forget."

Decades later, in 1989, the New York's Apparel Industry Task Force reports: "On the 12th floor of 333 West 39th

Street, (a 15-year-old Mexican immigrant boy) works in conditions considered barbaric half a century ago. (He) could be found by his table...sewing pleats into cheap white chiffon skirts. He hopes to make $1 an hour...the temperature inside is 8 degrees."

The Task Force reports even younger children working. The DOL proposed increase in penalties should help in detering exploitation in many workplaces; however, we would encourage the Congress to seriously consider criminal penalties for those who repeatedly exploit children as in the garment industry sweatshops. It is a sad commentary on our society that the conditions experienced by Eleanor Roosevelt still exist as documented by the Task Force.

In closing, I want to thank you for the opportunity to present the testimony of the National Consumers League and the Child Labor Coalition today. Please be assured that we will work with you to strengthen child labor protections and to rededicate ourselves to that most important task of assuring that obtaining a good education is the primary job of our youth.

Mr. **Lantos**. I want to thank you for that very valuable and very moving testimony. I appreciate this. I do have a couple of questions, if I may?

Mr. Frazier, you repeatedly refer in your testimony to detected violations. Is this increase that we see, just a change in detection or an actual increase in violations; what's your view?

Mr. **Frazier**. Mr. Chairman, we wanted to be very careful and say that it was detected violations that have increased. We had no way of knowing if actual violations are increasing, however, I would answer that in this way: We have seen approximately a 7 percent increase in the number of children in the work force over the same period that we measured the number of detected violations.

However, the number of violations have gone up, as you know, considerably more than the 7 percent increase in the children. I would say that, in general, I think that there is good reason to believe that there has been an actual increase in violations.

Mr. **Lantos**. Mrs. Golodner, can you give us an idea of the kinds of groups that make up the Coalition on Child Labor?

Ms. **Golodner**. There are education groups, some international children advocacy groups, organizations from organized labor. We're trying to get some business groups.

Mr **Lantos**. Well, I would think that you ought to succeed in that, because certainly, the overwhelming bulk of enlightened American labor does not believe in the exploitation of children, and there ought to be a willingness to participate in this valuable work.

I want to thank all three of you for your presentations and presence. This has been a remarkable series of revelations. I am very glad that no one, except those of us on the committee, saw the pictures that were presented to us concerning the nightmarish accident that young Matthew sustained.

This subcommittee will devote as much time and energy and attention as is necessary to bring the disgrace of child exploitation to an end. If I am not wrong, it's Esther Peterson who walked in here; is it?

Esther, you should have been here the whole day because we were fighting the good fight that you have taught us to fight all through the years. This hearing is concluded.

[Whereupon, at 2:36 p.m., the subcommittee adjourned, to reconvene subject to the call of the Chair.]

CHILDREN AT RISK IN THE WORKPLACE

FRIDAY, JUNE 8, 1990

House of Representatives,
Employment and Housing Subcommittee
of the Committee on Government Operations,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:30 a.m., in room 2247, Rayburn House Office Building, Hon. Tom Lantos (chairman of the subcommittee) presiding.

Present: Representatives Tom Lantos and Matthew G. Martinez.

Also present: Representatives Donald J. Pease and Charles H. Schumer.

Staff present: Stuart E. Weisberg, staff director and counsel; Kay A. King, Andrea Nelson, and Joy R. Simonson, professional staff members; June Livingston, clerk; and Jeff Albrecht, minority professional staff, Committee on Government Operations.

Mr. Lantos. The Subcommittee on Employment and Housing will come to order.

Today's hearing is the second in a series of hearings on the problems of child labor and the exploitation of youth in the workplace.

At our first hearing in March, the subcommittee was shocked by some of the testimony concerning widespread violations of child labor laws. We heard from young people who were injured while working illegally and from the mother a 17-year-old boy who was killed driving a delivery car for Domino's Pizza. We heard from State and Federal officials about their struggles to stem an epidemic of unlawful employment of children.

Children hired too young, many employed excessive hours or too late at night, and many in dangerous, prohibited jobs. Clearly, the issue requires additional oversight by the subcommittee.

At the last hearing Assistant Secretary of Labor Brooks reported on a 3 day nationwide enforcement effort in which 500 Labor Department investigators, half of the entire Wage Hour Division staff, inspected about 4,000 employers. They found apparent violations in 50 percent of these establishments. The number of minors involved in these cases rises every month. It now totals over 15,500 minors who have been found to be employed illegally compared to 9,800 during the entire year of 1985.

In response to my request, the Labor Department has released the names of the employers cited after the March child labor sweep. The overwhelming majority of these firms are fast food establishments, restaurants, supermarkets, and other retail stores. Therefore, we have invited as witnesses today top officials of four major fast food chains: McDonald's, Burger King, Domino's, and Little Ceasar's.

We will also hear from some employers in other industries who have been cited by the Department of Labor.

Earlier this year the Labor Department filed suit against Burger King, charging the fast food chain with a pattern and practice of continually violating child labor laws at many of its company owned restaurants. I am pleased that Burger King is cooperating with the Department of Labor and is taking significant steps to remedy the situation. In its dealings with the Labor Department, it appears that Burger King has in effect changed its slogan from, "Sometimes you've gotta break the rules," back to "Have it your way."

At our hearing in March we heard dramatic testimony from Suzanne Boutrous, whose 17-year-old son was killed last June while making a delivery for Domino's Pizza.

We questioned the policy of guaranteeing delivery of a pizza within 30 minutes of the time the order is placed, which has the effect of encouraging deliverers, often teenagers, to speed.

It is noteworthy that 2 weeks ago Domino's car won the Indy 500 auto race. They probably told their Indy 500 driver just pretend that you are delivering a pizza.

Our first panel of witnesses at today's hearing will bring to us two quite different aspects of the child labor problem. Two tragedies which occurred when youthful workers handled hazardous machines will be described by the parents of the victims.

Then the effects on education of excessive employment during school years will be the message from a high school teacher and two of her students. All of us, parents, educators and society at large, must understand this issue better if we are to develop the skilled work force America needs to maintain our standard of living and to compete in the global marketplace.

What can make this clearer than the fact that while only 2 percent of Japanese students work, two thirds of American students have jobs?

I am pleased to note this morning a major innovative action just announced by New York State Labor Commissioner Hartnett, who testified at our last hearing. A chain of supermarkets was found to have multiple child labor law violations. It was fined $67,300, and in addition will pay $50,000 to establish a trust fund to be used to teach minors their rights under State labor law.

Last month my distinguished colleagues, Congressman Pease and Congressman Schumer, and I introduced a bill which would update the child labor section of the Fair Labor Standards Act. Among its provisions are an increase in the civil penalties for violations from $1,000 to $10,000, criminal penalties and jail terms for willful and multiple violators of child labor laws, updating the list of prohibited occupations for young workers, and yearly work certificates which must be approved by parents, physicians, and school districts. The growing problem of child labor throughout the country demands significant legislative changes as well as much better enforcement by the Department of Labor.

I would like to reiterate that none of us on this subcommittee opposes employment for young people. We know that all too many families are in dire need of the income which their children's jobs provide, and we know that work offers various benefits. It can give a sense of responsibility, experience in meeting obligations, experience in handling money and some skill training.

Our child labor laws, even the present one which dates back to 1938, do permit employment of 16 and 17-year olds except in specific hazardous occupations and industries.

In addition, 14 and 15 year olds are limited to 3 hours per weekday and 18 hours per week when school is in session. Those younger than 14 may also be permitted to work in a few limited circumstances. Those utterly reasonable limitations are designed to protect the safety of youngsters and to maintain a healthy balance between work and school, which is their primary job and responsibility. Surely these provisions allow ample latitude for earning money whether it be to help support their families or for trendy clothes, pop concerts, or the upkeep of a car.

It is our earnest hope that these hearings and the Labor Department sweeps which they have generated will have the effect of significantly reducing the tragic deaths, serious injuries, and the exploitation of children in the workplace.

I am very pleased to call on my two colleagues who have led the way in updating child labor laws in the United States for whatever opening comments they might have.

Mr. SCHUMER. I want to commend you for holding this second oversight hearing on the growing problem of child labor. Your leadership has been marvelous and has focused needed attention on a problem most Americans thought disappeared a century ago.

Our disbelief about the exploitation of children is understandable. The grim picture of children laboring away in horrible conditions is one we associate with America in the 1890's, not the 1990's. Yet, it is America today. In testimony received at our first hearing, the General Accounting Office demonstrates two very simple facts. Too many likely violators are getting away with too much and too many of those who are discovered are getting nothing more than a mere slap on the wrist. We will hear today from both sides of the child labor issue, those who have fallen victim to exploitation and those who have been cited for violating child labor standards.

It will be valuable to get the whole picture, to understand the relationship between these children and their employers.

As the chairman mentioned, one of the corporations we will hear from today is Burger King, whose most recent slogan is ironically, "Sometimes you have got to break the rules." Let me say that when it comes to employing children behind its counters, Burger King's slogan must become, "You have always got to follow the rules."

Unfortunately, though, these rules are not good enough. Our laws are clearly outdated and clearly need overhauling. Congressman Don Pease, who has been such an outstanding leader on this issue, Congressman Lantos and myself have introduced legislation which strives to give the Department of Labor a powerful weapon to combat child labor violators.

Vigorous detection and stiff punishment are keys. Both are in limited supply right now with the result being that some merely factor in the risk of being found out as a child labor violator as a cost of doing business.

The penalties, simply stated, right now are ridiculously low. Consider this.

The average fine levied for the death of a child in the workplace in 1987 was $740. It is not difficult to see why employers bent on exploitation feel very little deterrence.

The Young American Worker's Bill of Rights changes that forever. For the first time violators will go to jail. They will also be subject to far greater fines.

They will no longer be able to say, "Well, I will exploit children, I will pay the fine, but my profit will still be greater than if I hadn't."

The American psyche shudders at the spectre of child labor abuse. Yet, our government's penalties merely resemble a shrug.

The testimony we will receive today graphically highlights that discrepancy and prompts us to address it. In the final analysis we have to stop this exploitation so our children can take on a full-time job.

While they may wish to work at part-time jobs, we know what that full-time job is. It is a job demanding 40 hours a week, concentration, and hard work.

The job of going to school and getting an education has to be first among American's children.

Thank you, Mr. Chairman.

Mr. **Lantos**. Thank you very much.

Congressman Pease.

Mr. **Pease**. Thank you very much, Mr. Chairman.

I am struggling with laryngitis this morning, so I will make a relatively short statement.

I would like to thank, first of all, you, Mr. Chairman, for including Congressman Schumer and I on this hearing.

Second, I would like to join Congressman Schumer in commending you for this series of hearings that you have held on this subcommittee.

Without a question, the problem of child labor in America has a much, much higher level of public awareness now than it did before you embarked on these hearings. I feel that you have performed a genuine public service to the Nation.

As Congressman Schumer and Congressman Lantos have both said, we are dealing today with two things really. Outright violations of existing, what Mr. Schumer calls reasonable, what I would call minimal protections for children in the workplace.

Certainly none of us ought to condone outright and willful violations of law. We are also—and the bill that the those of us have introduced deals directly with those outright violations of the law.

The second question we are really dealing with today seems to me has also been alluded to by Congressman Lantos and Congressman Schumer. That is the question of the wisdom of young people working long hours during their teenage years. I am a member of the Trade Subcommittee of the House Ways and Means Committee.

We are constantly aware of our trade, huge trade imbalance with Japan and with the difficulty that this nation is having in being competitive with Japan. When I hear that only 2 percent of Japanese young people work while they go to school compared with two thirds of Americans, it begins to tell me what one of our problems is.

And when I hear from many of my own constituents who have been spurred by these hearings to contact me, my own youthful constituents, about the number of hours they work, about the fact that they have to come into work at 4 a.m., in order to set up operations in some fast food stores and work until 11, 12 o'clock at night or later on school nights in restaurants and fast food restaurants, it seems to me that it is almost axiomatic that students who work 40 hours or more and who work early in the morning and very late at night are not going to be prepared the next morning in school to do what Mr. Schumer says is their No. 1 job. That is to learn as much as they possibly can so that they can be more productive members of a competitive society.

I join Congressman Lantos in saying that I believe in young people working. There are many advantages to doing so.

But there is a distinction that needs to be drawn between working enough to get some experience and to contribute marginally to the income of the family and working such long hours that their main occupation or main preoccupation during their teenage years becomes meeting a deadline for getting to work and staying at work rather than getting their homework done and being alert and ready when it comes to learning in the school room.

So, I commend again Congressman Lantos for this hearing, for the balance that he has brought to the panels which will appear before us today.

I very much look forward to this hearing.

Thank you.

Mr. **Lantos**. Thank you very much, Congressman Pease.

Before swearing in the first panel, the Chair would like to express deep appreciation to the outstanding staff work done by three members of the subcommittee staff on this hearing.

Joy Simonson, Dr. Kay King, and chief of staff, Mr. Stuart Weisberg.

Our first panel consists of Ms. Donna Lynch, a high school teacher from Clifton Park, NY, Mr. Chris Randolph, a student at Clifton Park, Mr. Brian Locatelli, a student at Clifton Park, Mr. Joseph Curley from West Pittston, PA, Mr. and Mrs. Claude and Jackie Hucorne from East Stroudsburg, PA.

Would you please all stand and raise your right hand.

[Witness sworn.]

The Chair is delighted to welcome all six witnesses.

They have very different and in three cases very tragic points of view.

As a parent and as a grandparent, I know that this will be a difficult morning for some of you.

We will first hear from Donna Lynch.

Your prepared testimony, Ms. Lynch, will be entered into the record in its entirety.

You may proceed any way you choose.

STATEMENT OF DONNA LYNCH, HIGH SCHOOL TEACHER, CLIFTON PARK, NY

Ms. LYNCH. Good morning.

I am Donna Lynch, and I am a 12th grade social studies teacher at Shenendehowa High School, in Clifton Park, a suburb of Albany, NY.

In the past, I have taught grades K through 12. I am also the mother of two teenagers.

I first became involved in the hours students work in 1984. At that time, I was teaching 10th grade social studies.

Over the past several years, I have begun to observe many things about today's teenagers. Today's teenagers are a wonderful bunch of kids, but they are without direction. They seek guidance, understanding and wisdom—the wisdom that comes only from experience.

While they argue, complain and even rebel, there is a vulnerability as well as a silent cry for help.

The help must come from all of us. We can demand that teachers be the best and that schools teach the most rigorous courses, but if children refuse to see the value of this, nothing else matters. We must convey the message to youngsters that education is the most important job they will ever have.

We have read about how poorly American students fare in comparison to their European and Asian counterparts. These studies suggest that American education should extend the school year, increase the work load and demand a higher level of performance.

While much of this has merit, it is also crucial to recognize that children in the Soviet Union, in Japan, in Germany, do not work. Instead, they appreciate the value of an education.

In the United States, we like to say—often and loudly—that education is important. But, do we support it? Or, do we instead send mixed messages about what is really important?

In December 1989, we conducted a survey at Shenendehowa. The purpose was to find out just what students, teachers, employers, and parents knew about the labor laws as well as the measurable and observable effects employment has on the academic performance of students ages 12 to 18.

The survey identified students strictly by the course level. The complete details of that survey are available. The most glaring results are as follows:

Nearly 75 percent of all students have worked by age 15. Nearly 20 percent worked more than one job.

One in three students feels that working adversely affects his or her school performance. Of these, 8 percent report falling asleep in class; 12 percent say they failed to complete assignments due to employment; 11 percent feel their work fails to meet teachers' standards.

Nearly 50 percent of those working during the week end work between 10 p.m. and midnight.

Students who work report significantly lower grade-point averages than students who do not work.

The more hours students work, the lower their grade-point average.

Ninety-one percent of the faculty surveyed felt that working adversely affects student's performance in school.

Forty-four percent of working students fall asleep during class.

Seventy-five percent of working students fail to complete assignments.

Eighty-one percent of working students fail to meet teachers' standards.

Sixty-three percent of working students had weak test results.

Thirty-eight percent of working students complained of not having enough time to complete assignments.

Thirty-eight percent of students were unable to find time to receive extra academic help.

These results reflect what was reported in the Harvard Education Letter, quote:

> Teenagers who work long hours earn lower grades and use more cigarettes, marijuana and alcohol. Working exposes them to new sources of stress and initiates them into sumptuous spending habits. Many become cynical about the values of work, learn to do only what is required and tolerate unethical behavior on the job.
>
> Perhaps the reason American education has declined so markedly is because American has raised a generation of part-time students.

If the children of the 1960's and 1970's were called the "Me Generation," certainly the children of the 1980's should be dubbed the "Instant Gratification Generation." Contrary to the work ethic of our grandparents—an ethic that taught that success was measured by how hard a person worked and how much pride they took in their work—today's students are learning how to make a fast buck and, even faster, how to spend it.

After reading the complaints made by corporations like Xerox and AT&T about the lack of skills and the "teaching" they must do so that even the lowest-level entry position can function, I ask myself, why? What has happened?

I therefore remind not only this committee today but also corporations and labor that luring children out of classrooms with the promise of a paycheck and possibly a future in their company is short sighted. While the immediate problem of filling a job slot is solved, the serious and long-term problems become even more serious as pressure from business mounts and the debate over part-time work for teenagers intensifies.

Labor Secretary Elizabeth Dole, the members of this committee and New York's Labor Commissioner Thomas Hartnett must be commended for their efforts. But it should be noted at this time that while labor can enforce the laws, the responsibility also lies with the U.S. Department of Education.

The Education Department must gather information and suggest ways in which schools can educate children about the laws, the hazards and pitfalls of excessive and dangerous employment.

One mechanism for the Federal Government to accomplish this would be to encourage States to offer courses outside the parameters of the normal school day for students considering employment.

In addition, by asking a student to participate in such after school or Saturday morning programs, we can communicate to that child the following: that school is important; that employment has benefits, and by carefully budgeting his or her time, a student can achieve success at both.

Perhaps a task force composed of teachers, parents, community business leaders, and students could begin to work on solutions to this very complex problem. If we fail to impress upon our children the importance of an education—if we don't set that tone—we deny the world the untapped and never-to-be-developed skills and talents that today's young people could one day offer.

Imagine for a moment a community working together and listening to each other—truly democracy in action, truly a community that cares about all its citizens. This opportunity is ours. For the good of all our children—indeed, for the very survival of this country—we must seize upon it now.

This Nation will one day belong to these young people—the ones we have abused and exploited. I wonder what they will do when they sit where we sit today and reflect upon what we have stolen from them—their education, their free time, their extracurricular activities, their very childhood.

What will they say when they reflect on a time never to be recaptured? I wonder what they will say, and I fear what we will answer.

I would like to thank the members of this committee not only for providing me with this opportunity to share with you my thoughts on this crucial issue, but also for your continued efforts on behalf of American's children.

[The prepared statement of Ms. Lynch follows:]

Statement by Donna Lynch
Teacher, Shenendehowa High School
Clifton Park, N.Y.
To the Employment and Housing Subcommittee
Committee on Government Operations
June 8, 1990

Good morning.

I'm Donna Lynch, and I'm a 12th grade social studies teacher at Shenendehowa High School in Clifton Park, a suburb of Albany, N.Y. In the past, I've taught grades K through 12. I'm also the mother of two teenagers.

I first became involved in the hours students work in 1984. At that time, I was teaching a 10th grade social studies course.

Eric was an A-student. His grades were beginning to slip. I noticed he was having difficulty staying awake, difficulty in responding to questions and his assignments were either not up to past performance or handed in late.

Eric's response to my question concerning his performance was: "I'm working now, but it's only for Christmas."

I reminded him that the stores closed at 9:30 PM -- back then, they did -- and he told me, "Yes, but we have to stay and re-stock the shelves. I get out around 12, and I'm not in bed before 1 or 2 if I do my homework."

For Eric, that scenario ended on December 24th of that year. Yet for me, the concerns, the frustrations and the fears had just begun.

I began asking my students -- the ones who were falling asleep in class, the ones who were not handing in assignments, the ones who refused extra help, or whose work had begun to slip -- why? The majority responded with the same excuse -- stated the same way. And I quote: "I have no time. I work."

Over the past several years, I have begun to observe many things about today's teenagers. Today's teenagers are a wonderful bunch of kids, but they're without direction. They seek guidance, understanding and wisdom -- the wisdom that comes only from experience.

While they argue, complain and even rebel, there is a vulnerability as well as a silent cry for help.

The help must come from all of us. We can demand that teachers be the best and that schools teach the most rigorous courses, but if children refuse to see the value in this, nothing else matters. We must convey the message to youngsters that education is the most important job they'll ever have.

While the dictionary defines work as employment, it also defines it as a task and a productive activity. This productive activity should not be compromised nor minimized for any reason.

We've read about how poorly American students fare in comparison to their European and Asian counterparts. These studies suggest that American education should extend the school year, increase the work load and demand a higher level of performance. While much of this has merit, it's also crucial to recognize that children in the Soviet Union, in Japan, in Germany, do not work! Instead, they appreciate the value of an education.

In Japan, for example, if a student is ill, the student's mother attends class. The mother takes notes. She brings home the student's assignments. Certainly, Japanese parents recognize and strive to maintain their nation's educational goals.

In the United States, we like to say -- often and loudly -- that education is important. But, do we support it? Or, do we instead send mixed messages about what's really important?

I'd like to share with you some of the observations on this problem made to me over the years by faculty members at Shenendehowa.

- "Students fall asleep in my class."
- "Students are unable to come for help."
- "Students tell me of friends working until 12, 1 or 2 in the morning -- washing dishes at local restaurants -- students working in excess of 40 hours per week."
- Students are frequently absent or late to school.
- Students take less rigorous courses, so they can work.
- Students are satisfied just to pass.
- Students are exploited in the work force.
- Students take the minimum number of required courses, thus enabling them to work more hours.

* Students are paid off the books.

* Many parents seem unaware or unconcerned with labor laws and the educational consequences of excessive hours.

To study this further, in December of 1989 we conducted a survey at Shenendehowa. The purpose was to find out just what students, teachers, employers and parents knew about the labor laws as well as the measurable and observable effects employment has on the academic performance of students ages 14 to 18. The survey identified students strictly by the course level. The complete details of that survey are available. The most glaring results are as follows:

* Nearly 75 per cent of all students have worked by age 15.

* Nearly 20 per cent worked more than one job.

* One in three students feels that working adversely affects his or her school performance. Of these, eight per cent report falling asleep in class; twelve per cent say they failed to complete assignments due to employment; eleven per cent feel their work fails to meet teachers' standards.

* Nearly 50 per cent of those working during the week end work between 10 PM and midnight.

* Students who work report significantly lower grade-point averages than students who do not work.

* The more hours students work, the lower their grade-point average.

* Ninety-one per cent of the faculty surveyed felt that working adversely affects students' performance in school.

* Forty-four per cent of working students fall asleep during class.

* Seventy-five per cent of working students fail to complete assignments.

* Eighty-one per cent of working students fail to meet teachers' standards.

* Sixty-three per cent of working students had weak test results.

* Thirty-eight per cent of working students complained of not having enough time to complete assignments.

* Thirty-eight per cent of working students were unable to find time to receive extra academic help.

If we were to compare the time spent on sports by athletes in high school, two glaringly different points must be made:

* Athletes spend a maximum of 20 hours a week practicing and playing their sport, and

- They seldom are out after 10 PM on school nights.

In addition, it's vitally important to realize that the student who works is not necessarily a part-time employee. Rather, that student is a full-time student as well as a full-time worker. It's no wonder that another survey found that 37 % of the high school students who worked were falling asleep in school or simply not in attendance.

A study done by Laurence Steinberg of the University of Wisconsin and Ellen Greenberger of the University of California was summarized in the September, 1986, issue of the Harvard Education Letter. This study looked at all activities influencing students. They concluded by saying -- and I quote:

"Teenagers who work long hours earn lower grades and use more cigarettes, marijuana and alcohol. Working exposes them to new sources of stress and initiates them into sumptuous spending habits. Many become cynical about the values of work, learn to do only what is required and tolerate unethical behavior on the job."

To counter these ill effects, the authors suggest that parents and educators urge teenagers receive guidance on how to use their earnings, that guidance counselors reassess work-study placements and that all adults reassess the subtle ways they bend school and family rules to accommodate teenagers' jobs."

In the November 22, 1988, issue of The Christian Science Monitor, Walter Minot, professor of English at Gannon University, writes: "By the time they get to college, most students look upon studies as a spare time activity. Clearly, individual students will pay the price for lack of adequate time studying, but the problem goes beyond the individual. It extends to schools and colleges that are finding it difficult to demand quantity or quality of work from students.

"Perhaps the reason American education has declined so markedly is because America has raised a generation of part-time students."

If the children of the '60s and '70s were called the "Me

Generation," certainly the children of the '80s should be dubbed the "Instant Gratification Generation." Contrary to the work ethic of our grandparents -- an ethic that taught that success was measured by how hard a person worked and how much pride they took in their work -- today's students are learning how to make a fast buck and, even faster, how to spend it.

In May, 1986, The Wall Street Journal reported the story of Quinn Duffin. Quinn was an 18-year-old high school senior working 38 hours a week and earning $5.35 per hour -- or, according to my calculations, more than $10,000 per year. No wonder, when asked about his purchase of a 1980 BMW and his failing math and physics grades, he declared: "I'd rather have money than pass a class."

It's this attitude that is beginning to worry educators and psychologists. "It's this premature affluence," says one counselor from Quinn's high school, "that will lead to disillusionment in later years, when most income must go to pay rent and food bills. Many working teens are leading a lifestyle that is unrealistic."

While it's equally unrealistic for us to believe employers when they tell us that 14- and 15-year-olds are vital to the economy, we must acknowledge the economic factors businesses may face as well as the impending limitations imposed on their hiring practices. After reading the complaints made by corporations like Xerox and AT&T about the lack of basic skills and the "teaching" they must do so that even the lowest-level entry position can function, I ask myself why? What has happened?

I therefore remind not only this committee today but also corporations and labor that luring children out of classrooms with the promise of a paycheck and possibly a future in their company is short-sighted. While the immediate problem of filling a job slot is solved, the serious and long-term problems become even more serious as pressure from business mounts and the debate over part-time work for teenagers intensifies.

In spite of the increasing number of labor law violations, we must recognize that teenagers in the workforce are not a passing fad. It's therefore vital to our futue that we begin to work together to produce a solution.

Business can't do this alone. The Labor Department can't solve the problem alone. Educators can't take sole responsibility for this situation. And parents must assume more responsibility before we can jointly acknowledge the benefits derived from truly part-time work -- defined as less than 20 hours per week.

Help us educate our youth about the importance of education. Encourage parents to monitor their children's hours and require businesses and communities to work together. If all that can be done, then we certainly will have accomplished the first step. I'd like to quote a colleague, Richard Lewis, chairman of the English Department at Shenendehowa High School. He speaks for all of us when he says:

"What all of this conveys to our young people is a value system which places work, and the "benefits" to be gained from work, above learning. Learning becomes something that kids might get to if there's any time left and they're not too tired to "cram" in, to do just enough to get by and get over with. Sound familiar?

"We can't have it both ways. We can't have schools in which learning and thinking and excelling are valued if these values do not exist outside of school. The long-term cost will be to lose the future (that future our kids are witing for) to those cultures that value learning. This process is, of course, well under way, a process which has generated the paranoia which has, in turn, generated the demands for school reform, an irony that we who work in schools are well aware of. "On behalf of my fellow teachers, I'd like to thnak those parents who are, so far, holding firm against the pressures to allow their children to work on school nights. Lawmakers and Federal and State Labor Department officials must resist that pressure as well."

Labor Secretary Elizabeth Dole, the members of this committee and New York's Labor Commissioner Thomas Hartnett must be commended for their efforts. But it should be noted at this time that while Labor can enforce the laws the responsibility also lies with the U.S. Department of Education. The education department must gather information and suggested ways in which schools can educate children about the laws, the hazards and pitfalls of excessive and dangerous employment.

One mechanism for the federal government to accomplish this would be to encourage states to offer courses outside the parameters of the normal school day for students considering employment. In addition, by asking a student to participate in such after school or Saturday morning programs, we can communicate to that child the following:

* That school is important,

* That employment has benefits, and

* By carefully budgeting his or her time, a student can achieve success at both.

Perhaps a task force composed of teachers, parents, community business leaders and students could begin to work on solutions to this very complex problem. If we fail to impress upon our children the importance of an education -- if we don't set that tone -- we deny the world the untapped and never to be developed skills and talents that today's young people could one day offer.

Imagine for a moment a community working together and listening to each other -- truly democracy in action, truly a community that cares about all its citizens.This opportunity is ours. For the good of all our children -- indeed, for the very survival of this country -- we must seize upon it now. This nation will one day belong to these young people -- the ones we have abused and exploited. I wonder what they'll do when they sit where we sit today and reflect upon what we've stolen from them -- their education, their free time, their extracurricular activities, their very childhood. What will they say when they reflect on a time never to be recaptured? I wonder what they will say, and I fear what we will answer.

I'd like to thank the members of this committee not only for providing me with this opportunity to share with you my thoughts on this crucial issue, but also for your continued efforts on behalf of America's children.

Mr. **Lantos**. Thank you, Ms. Lynch.

Let me say that you have given us eloquent, persuasive, powerful arguments. I know we will all have some questions to ask of you.

I would like to call on Chris Randolph for his presentation.

STATEMENT OF CHRIS RANDOLPH, STUDENT, CLIFTON PARK, NY

Mr. **Randolph**. Thank you for the opportunity to offer my comments and experiences on the subject of child labor. The problem facing the child in the American workplace are wide and far reaching.

I began working, that is, having what is traditionally thought of as a job, at age 12. I joined many fellow neighborhood children picking fruit and vegetables at a local orchard during the summer. We worked in the fields from 8 a.m. until noon.

The pay was 75 cents per bucket picked, and was paid at the storefront at the end of the day. I believe the most I ever made in 1 day was $6. I remember vividly that we usually had no adult supervision in the fields.

Instead of returning to the fields the following summer when I was 13, I began working as a paperboy to develop a new newspaper delivery route. It was a morning paper, and the concept was that it would not affect school work because it would be done before going to school. The concept had problems, though, and the greatest problem was that I was too successful.

The more the paper route expanded, the earlier I would have to arise to have enough time to complete it—and this meant going to bed earlier and earlier.

Mr. **Lantos**. Donald Trump is having problems of too much success. You are in good company, Chris.

Mr. **Randolph**. There is also the usual administrative work of keeping accounts, et cetera; that progressively required more and more time.

The thing that finally soured me, however, was the constant hype and pressure from my supervisor to expand and get new customers. The more I got, the less I was able to handle the workload.

By the time I quit, the size of my route could only be handled by automobile, which meant involving my parents. My supervisor would not allow me to impose a self limit on the size of my route, and insisted I develop all the territory assigned to me or give it up—reinforcing the thought that the employer is all, and everything else is secondary.

To have this type of pressure put on a child is not good.

When I was 14, a friend introduced me to a job opportunity at a local restaurant. I began as an occasional helper while hanging out with my friend there, and quickly jumped at the chance for regular work because I wanted extra money.

I started as a dishwasher, with the promise held out of eventually being trained as a cook. Being a dishwasher at a restaurant is a lot different from helping out at the sink at home.

As a dishwasher, my main duty was to prewash the dishes and then load them in the commercial dishwashing machine. It was common for me to deal with cuts because of broken glass and dishes.

Another duty assigned me as dishwasher was to cut and grind the cheese used by the restaurant. This involved using large knives to cut the large blocks of cheese into strips. Again, cuts were common, but luckily they were never serious enough for medical care.

Then I took the cheese slices into the cellar where I would put them into a grating machine that, I believe, would fall under the category of heavy equipment. The machine was in the far corner room of the restaurant's basement, and I often used it without any adult supervision. In addition to grating cheese, I also used the machine to grate old bread into breadcrumbs.

Once, while using the machine to grate bread, it overheated. I went upstairs to get help, and when we returned, the drill that compresses and squeezes the bread through the grate was rubbing its casing and sending bits of metal through the grater. The machine was shut off, but not before its casing had been cracked by the drill and had become red hot. Despite this near disaster, my supervisors spent more time on the thought that it was my fault the machine broke than to whether or not I had been hurt.

The hours I worked might be considered horrendous in retrospect, but the fact is that I had wanted them because it gave me more free time during the day. I began working during the summer on a general 3 p.m. to 2 a.m. shift. Occasionally I worked 7 a.m. to 4 p.m.

I usually worked 4 or 5 days a week, although one August I worked 25 of the first 28 days. I kept this job when school began, working a couple of nights a week and on weekends. It wasn't unusual for me to work some school nights until 11 p.m., as I was often the person asked to cover for contingencies when someone didn't show up for work or had to leave early.

I had begun to be given a chance to occasionally cook, and was given the impression that I had no choice but to comply with the extra work requirements or lose the job. Eventually, I became wise to the fact that I was just being used as a filler by my boss to give more flexibility to the adult workers he had; and I quit the job.

Then I took a similar job at another local restaurant. The hours were also similar, and I progressively found them getting later and later until 11 p.m. on school nights had become the rule. It also developed to a 3 or 4 nights a week job during the school year.

The feeling I got from working so many hours was that I was an important employee, and that if I wasn't there, the whole place would fall apart.

I also fell into the money trap, because in truth when I started working I didn't need the money; but as I began to have more of it, I became more and more dependent upon it. It was a vicious circle, where the money and the status I had at the restaurants were more important than my schoolwork.

I now believe the hours I worked were reflected in poor grades, as I unquestionably placed my work at the restaurants above school. Although schoolwork was allowed to be done on the short breaks, I usually was more anxious to just relax and get something to eat.

The late hours were causing friction with my parents, but no major action occurred until my father read a newspaper article on the New York State labor laws listing restrictions on work hours for school children.

I informed my employer of my parents insistence that I comply with the regulations, and for the next few weeks I worked only until and within the numbers of hours permissible by law. Then my employer asked me to fill in for another person.

Although it probably would have conflicted with the labor laws in any case, I had previously told him of a promise to my family to attend a family function. I was fired on the spot, and at first blamed my parents. But now I see that my employer was just looking for an excuse to fire me because I would not work the illegal hours he wished me to.

Looking back I see that I could have done many more constructive things with my time, and my advice to kids about to start a job would be to think carefully. If you have the luxury of not really needing a job—don't get one. If you must work, get to know the child labor laws, know your legal rights, and make it clear to your employer that you will not violate them. Keep your education as the No. 1 priority.

My parents may have subscribed to the old-fashioned concept that working was a good way to develop responsibility and learn about the real world, but the reality I found was that children are easy marks for exploitation. Our natural naivete and intuitive trust of adults makes us easy prey.

It also troubled me to find among some of my coworker children that their parents sent them to work simply because they don't know what else to do with them, or wanted them out of their hair. So the workplace is also used as a form of baby sitting.

I was lucky in many ways. First of all that I was not injured by tools or machines deigned for adults, and second, because I was able to stop working and get on to finishing my education—although it has been a rocky road to redevelop the necessary work habits.

I still work, but am self-employed as a promoter of antidrug and antiviolence local rock concerts. While I am not making any money to speak of, I am being productive, am learning about business, and enjoy being my own boss.

[The prepared statement of Mr. Randolph follows:]

CHILD LABOR TESTIMONY
CHRISTOPHER JAMES RANDOLPH

8 JUNE 1990

Student, Shenendenowa High School
Clifton Park, NY

Thank you for the opportunity to offer my comments and experiences on the subject of child labor. The problems facing the child in the American workplace are wide and far reaching.

I began working, that is having what is traditionally thought of as a job, at age 12. I joined many fellow neighborhood children picking fruit and vegetables at a local orchard during the summer. We worked in the fields from 8 a.m. until noon. The pay was 75 cents per "bucket" picked, ad was paid at the storefront at the end of the day. I believe the most I ever made in one day was six (6) dollars. I remember that we usually had no adult supervision in the fields.

Instead of returning to the fields the following summer when I was 13, I began working as a "paper-boy" to develop a new newspaper delivery route. It was a morning paper, and the concept was that it would not affect school work becasue it would be done before going to school. The concept had problems, though, and the greatest problem was that I was too successful. The more the paper route expanded, the earlier I would have to arise to have enough time to complete it--and this meant going to bed earlier at night. There is also the usual administrative work of keeping accounts, etc.; that progressively required more and mroe time.

The thing that finally soured me, however, was the constant hype and pressure from my supervisor to expand and get new customers. The more I got, the less I was able to handle the workload. By the time I quit, the size of the route could only be handled by automobile; which meant involving my parents. My supervisor would not allow me to impose a self-limit on the size of my route, and insisted I develop all the "territory" assigned me or give it up--reinforcing the thought that the employer is all, and everything else secondary. To have this type of pressure put on a child is not good.

When I was 14, a friend introduced me to a job opportunity at a local restaurant. I began as an occasional helper while hanging out with my friend there, and quickly jumped at the chance for regular work because I wanted extra money. I started as a "dishwasher", with the promise held out of eventually being trained as a cook. Being a "dishwasher" at a restaurant is a lot different from helping out at the sink at home.

As a "dishwasher", my main duty was to pre-wash the dishes and then load them in the commercial dishwashing machine. It was common for me to deal with cuts because of broken glass and dishes. Another duty assigned me as a "dishwasher" was to cut and grind the cheeses used by the restaurant. This involved using large knives to cut the large blocks of cheese into strips. Again, cuts were common, but luckily they were never serious enough for medical care.

I then took the cheese slices into the cellar where I would put them into a grating machine, that I believe would fall under the category of heavy machinery. The machine was in the far corner room of the restaurant's basement, and I often used it without any adult supervision. In addition to grating cheese, I also used the machine to grate old bread into breadcrumbs.

Once, while using the machine to grate bread, it overheated. I went upstairs to get help, and when we returned the drill that compresses and squeezes the bread through the grate was rubbing its casing and sending bits of metal through the grater. The machine was shut off, but not before its casing had been cracked by the drill and had become red hot. Despite this near disaster, my supervisors spent more time on the thought that it was my fault the machine broke--than to whether or not I had been hurt.

The hours I worked might be considered horrendous in retrospect, but the fact is that I had wanted them becasue it gave me more free time during the day. I began working during the summer on a general 3 p.m. to 2 a.m. shift. Occasionally I worked 7 a.m. to 4 p.m. I usually worked 4 or 5 days a week, although one August I worked 25 of the first 28 days. I kept this job when school began, working a couple of nights a week and on weekends. It wasn't unusual for me to work some school nights until 11 p.m., as I was often the person asked to cover for contingencies when someone didn't show up for work or had to leave early.

I had begun to be given a chance to occasionally cook, and was given the impression that I had no choice but to comply with the extra work requirements or lose the job. Eventually, I became wise to the fact that I was just being used as a filler by my boss to give more flexibility to the adult workers he had; and I quit the job.

I then took a similar job at another local restaurant. The hours were also similar, and I progressively found them getting later and later until 11 p.m. on school nights had become the rule. It also developed to a 3 to 4 night a week job during the school year. The feeling I got from working so many hours was that I was an important employee, and that if I wasn't there the whole place would fall apart.

I also fell into the money trap, because in truth when I started working I didn't "need" the money; but as I began to have more of it--became more and more dependent upon it. It was a vicious circle, where the money and the status I had at the restaurants were more important than my schoolwork. I now believe the hours I worked were reflected in poor grades, as I unquestionably placed my work at the restaurants above school. Although schoolwork was allowed to be done on the short breaks, I usually was more anxious to just relax and get something to eat.

The late hours were causing friction with my parents, but no major action occurred until my father read a newspaper article on the NYS Labor Laws listing restrictions on work hours for school children. I informed my employer of my parents insistence that I comply with the regulations, and for the next few weeks I worked only until and within the numbers of hours permissible by law. Then my employer asked me to fill in for another person.

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My parents may have subscribed to the old-fashioned concept that working was a good way to develop responsibility and learn about the "real" world, but the "reality" I found was that children are easy marks for exploitation. Our natural naivete and intuitive trust of adults makes us easy prey. It also troubled me to find among some of my co-worker children that their parents sent them to work simply because they don't know what else to do with them, or wanted them out of their hair. So the workplace is also used as a form of baby-sitter for many.

I was lucky in many ways. First of all that I wasn't injured by tools or machines designed for adults, and secondly because I was able to stop working and get on to finishing my education--although its been a rocky road to re-develop the necessary work habits. I still "work", but am self-employed as a promoter of anti-drug and anti-violence local rock concerts. While I am not making any money to speak of; I am being productive, am learning about business, and enjoy bieng my own boss.

SIGNATURE: DATE: June 5, 1990

Mr. LANTOS. Thank you very much, Chris. That was an outstanding testimony.

You show a maturity way beyond your years. I am sure we will have questions of you.

Brian, I understand you have no prepared statement, but you would like to say some things to the committee.

STATEMENT OF BRIAN LOCATELLI, STUDENT, CLIFTON PARK, NY

Mr. LOCATELLI. Let me introduce myself. I am Brian Locatelli. I am 18 years old. I am here today to discuss my personal experiences as well as the experiences of my peers pertaining to working conditions, its hazards and the effect employment has on school work.

Everyone has studied or heard of the terrible working conditions children worked during the industrial revolution. Children were illiterate, injured, maimed, even killed. That is still happening today in our modern, civil society.

Employers either unaware of labor laws or in an effort to increase profits are exploiting the cheapest source of labor: Your children, myself, my friends and my peers.

I started working at a local supermarket when I turned 16.

My first position at the store was a bottle return clerk. This position entailed my breaking returned glass with the use of special machinery.

I did not think there was any danger in doing this nor that this was a violation of the State law. One day I noticed writing next to the machine that stated "operation of this machinery by anyone under 18 years of age was a violation of New York State laws."

However, since I was continuously assigned to this position, I accepted the responsibility without questioning it.

I was a 16-year-old teenager, I didn't know the laws, and worse yet, I didn't know what to do and who to tell if I thought I was in violation of any laws.

In recent times there has been a lot of emphasis put on education. Also, education has taken a back seat to working.

There are only so many hours in a day. When a child does goes to school in the day and work at night, it leaves little time for anything else, such as preparing for school the next day. I found this to be true in my case as well as that of my peers.

On the nights where there was not enough time to complete all the school assignments, a student is forced to make a pyramid of his assignments. The top of the pyramid being the most important assignments, would receive the most time and effort and each level below that receiving less effort. This tends to leave many projects unattended to.

The average full-time job is 9 to 5, totaling 40 hours a week. Meanwhile the average student goes to school 35 hours a week and works an additional 25 hours a week for a total of 60 hours a week.

This does not include time for homework. The student is forced to keep up this hectic pace for weeks, often months at a time. Ironically, students who often work 20 or 40 hours a week are not considered part of the labor force.

The whole problem with balancing school and labor goes awry with the first pay check the child receives.

The majority of kids age 13 to 17 have very few expenses. When they receive the first pay check, they spend it by pampering themselves. The pampering includes buying such items that the child normally wouldn't, items of luxury rather than needs.

This pampering becomes habit forming. The child has now entered the money trap, also stated by Chris. As the child earns more money, he spends it and gets used to having certain privileges that are granted by pay checks. At the same time the child's efforts towards school and ultimately his grades start slipping. Unfortunately, the child can't stop working for to do so would mean the checks would stop coming and the child couldn't afford his habit with privileges. Thus the child continues to work regardless of his achievement in school.

In conclusion, people and government—including President Bush—have realized education in America is dropping. Society as a whole realizes that this must change and education must increase.

But if the education is to increase, something must decrease. I propose the that that something is to be child labor.

The responsibility for change should not be that of the child himself. I believe the responsibility is up to the child, the parent, the employer, both State and Federal Government and society as a whole.

Because after all, educated children will become an educated Nation and more importantly an educated society.

Thank you.

Mr. LANTOS. Thank you very much, Brian, for an outstanding testimony.

I think we will ask a few questions of this portion of the panel before we go to the other portion because we are very anxious to hear from all of our witnesses.

Ms. Lynch, we are very much interested both in your views and in the survey that you and your students conducted. How many students were included in your survey?

Ms. LYNCH. 500.

Mr. LANTOS. As you compared students who worked with students who did not work, the results that I find in your submitted statements are remarkable. For instance, failing to complete assignments, 75 percent for those working, 38 percent for nonworking students.

Failing to meet teacher standards, 81 percent for the working students, 31 percent for the nonworking students.

Weak test results, 63 percent for working students, 31 percent for nonworking. Falling asleep in class, 44 percent for working students, [illegible] percent for nonworking. Complaining of not enough time to complete assignments, 38 percent for the working students, 13 percent for nonworking students. So on, and so on.

Is it fair to say that there is a clear correlation between poor academic performance and working?

Ms. LYNCH. Absolutely, no doubt in my mind.

Mr. LANTOS. Did you ask the students whether their parents were aware of child labor laws?

Ms. LYNCH. Yes, I did.

Mr. **Lantos**. What was the response?

Ms. **Lynch**. The response was that some did know of some of the laws. Some were more confident that the employer would follow those laws, so parents tended not to pursue the avenue of looking into what the laws were because they felt that the child would be protected in the marketplace, job force.

Mr. **Lantos**. In your survey and in your central work in this field, was it your impression that students felt that the Department of Labor enforcement of child labor laws is serious and ongoing?

Ms. **Lynch**. They have become aware of it now. They really didn't in the beginning have an understanding that they had rights.

They had no idea that their rights were even violated.

They didn't know their employer was in violation of laws. They were afraid to say something, because if they did, they will be fired. As both those gentleman have said, they will get used to the money.

So they do just about anything to keep the job because they want the money. So they tend not to want to come forward until after they are ready to graduate. Then they look back on it.

Mr. **Lantos**. In your testimony you say that nearly 20 percent of the students you surveyed worked at more than one job?

Ms. **Lynch**. Yes.

Mr. **Lantos**. Is this more than one job at a time?

Ms. **Lynch**. That, we need to go back and look at that a little more carefully. But from what I have heard from some of the students, I can't give you an exact figure on it, but many of them do.

The fear that I have is that when in New York for instance, they want to cut the hours, the number of hours that students can work, 16, 17 year olds, they want to go from 48 hours to 28 hours.

Without some form of monitoring, I am very afraid a student will go and get two jobs at 28 hours apiece. Many of my students work two jobs.

Mr. **Lantos**. What prompted you to become interested in this field where you obviously have done excellent——

Ms. **Lynch**. I had a student fall asleep in class, and I said I was too interesting. He couldn't fall asleep. I wanted to know why. He told me he was stocking shelves in a retail store, and it was only for Christmas.

But he was staying until 1 o'clock in the morning. I watched his grade go from an A to a C. So I said that was enough. It is time to start looking into it.

I am still interesting in the class room, so they can't fall asleep.

Mr. **Lantos**. I am sure you are. I am sure you are.

You are interesting in the committee hearing room as well.

Christopher, how did your work during the school year affect your grades, school attendance, performance in general?

Mr. **Randolph**. It affected my school work and grades adversely. I was, I was definitely more interested in working than school. I, I failed a lot of classes. I am on the borderline of graduating where I have let my, I have let other people control my life now because I have to pass every class I am enrolled in.

Those people have a great power over me right now. And if I had, when I was younger, gotten more credits, maybe not have worked, these people wouldn't have this power over me now.

Mr. **Lantos**. When did you become aware of child labor laws, after how many years of working?

Mr. **Randolph**. Probably after 4 years of working.

Mr. **Lantos**. Did any of your employers during that 4-year period tell you about your rights under child labor laws?

Mr. **Randolph**. No. In New York you receive a workers, a working card, a green card. On the back in very small print is listed the regulations. You don't, you go into the office with a birth certificate.

You give them your birth certificate, and they give you your working card. There is no discussion about the number of hours you can work with this card, what it can and cannot be used for. To try when you are 12 to decipher some of the things on the back is almost impossible.

Mr. **Lantos**. Was there any discussion of child labor laws at your school?

Mr. **Randolph**. Not until this year in Ms. Lynch's class. The only discussion of child labor was when we were talking about the industrial revolution.

Everyone thought that isn't happening any more.

Mr. **Lantos**. Did you tell your parents when you had the near disaster with the malfunctioning grating machine?

Mr. **Randolph**. No, I would lie to my parents a lot about work. I wouldn't tell them I was, what I was doing sometimes because I knew they would probably be upset and pull me from the job. At that point, the job was everything to me.

No, I did not tell them at that time.

Mr. **Lantos**. Brian, when did you become aware of child labor laws?

Mr. **Locatelli**. As soon as I started working. I became more aware of the laws as I was exposed in the work force. Knowing the laws didn't help me at all because once I knew the laws, I didn't know what to do with them from there. I assumed that the employer knew the laws. And since he was continuously putting me at the same position, he knows something or had better judgment of the laws than I did at the time.

I assumed that an employer who had been in the work force many years and has the responsibility of employer would respect the laws rather than having the responsibility being left to a 16 year old.

Mr. **Lantos**. Did your family need your income?

Mr. **Locatelli**. No, they did not. It was for my own personal use. I spent just about all of it.

Mr. **Lantos**. In retrospect—you say you are 18 now?

Mr. **Locatelli**. Yes.

Mr. **Lantos**. In retrospect, do you feel that these countless hours that you spent in the kind of work you did would have been better spent studying?

Mr. **Locatelli**. Definitely.

Mr. **Lantos**. Preparing yourself for a complex labor demand of the next decade or so?

Mr. **Locatelli**. Yes. All I did by working was earn pay checks which I spent on material things that have very little value. They have the materialistic value, but nothing else. And for that I was taking away a part of my education.

With my work, I didn't have as much time for education. All I was gaining was materialistic things from the job.

Mr. **Lantos**. I would like to turn to my colleagues now. When we have finished questioning the first three witnesses, we will go to the second half of the panel.

Congressman Martinez.

Mr. **Martinez**. Thank you, Mr. Chairman.

Let me start out by saying that, to you, Chris, that from your work experience, because they parallel mine, you will probably end up in Congress. I started working when I was 12 years old on a paper route. I delivered not only one paper route, but after about 3 months of delivering that one paper route, I delivered two. I subsequently went on to do other kinds of work.

When I was 15, I was a chipper in a welding company. By 15 I was a welder. When I found out it was dirty and hard work, I looked for an easier job.

I was an operator of machinery in a mailing house. "Casey the Mailer" is what it was called. I had great work experiences. I am not bitter about any one of them. I believe they led me to where I am today.

I don't think they deterred my education. The classes that I liked, I did well and got A's.

The classes I didn't like, I got D's. That was my attitude and my own conscious choices that I made at the time. I would say to you and the other youngman, any experiences you had in the past, don't look at them as negative experiences.

Look at them as positive experiences. Even with regard to the labor laws you learned about, you can use that to help other people.

You can look at live experiences that can help you develop a better position. Don't develop a negative attitude. Develop a positive attitude.

I would like to find out about the survey of the 500, exactly who they were. Let me tell you why. These two gentlemen said they didn't need the work, didn't need the money, that their families are financially well off enough to provide them with what they needed as far as growing up and going to school.

In a lot of areas it is not a matter of wanting to or just for the extra money or becoming, let's say, an addict of the money. It is real need, need in the families.

I went to work much when I was young—I was born in 1929, and was raised through the Great Depression. In our family, a family of 10, all of our family worked at a young age. It was out of need, not out of, let's say, a luxury or anything like that.

So I am really interested in the 500 that you did a survey. First maybe we can try to identify who they are, what they are.

What kind of an economic background area do you come from? These, I imagine, of the 500 were all kinds in your school?

Ms. **Lynch**. Yes, they were.

Mr. **Martinez**. They were not your class——

Ms. **Lynch**. No, they were all students at the Shenendehowa school district. It is a rather affluent school district. They were grades 8 through 12.

Mr. **Martinez**. Of the 500 that you surveyed, did, were they all doing bad in class?

Ms. **Lynch**. No. They were surveyed according to their course level. We did not identify them by name. We——

Mr. **Martinez**. In other words, how many of the 500 that were working weren't doing bad? Did you compile that statistic?

Ms. **Lynch**. We really looked at it more in terms of how they were doing across the board. What we found was the higher the grade point average, the probability was that they were working either not at all or with less than 20 hours a week.

Mr. **Martinez**. All 500 were working?

Ms. **Lynch**. No.

Mr. **Martinez**. You did a group of not only 500——

Ms. **Lynch**. We did from 8th grade through 12th grade.

Mr. **Martinez**. How many of the 500 were working?

Ms. **Lynch**. About 350.

Mr. **Martinez**. Let's concentrate on the 350 and forget the 500 because the 500 when working, of the other 150 that were not working, they have no situations at all because their grade level wouldn't be affected by working whether it was good or bad.

Let just take the 350.

Of the 350, were they all doing bad?

Ms. **Lynch**. No.

Mr. **Martinez**. Of the 350, how many were actually doing badly? Consciously in your mind you determined that a certain number were doing badly because a certain percentage fell asleep and a certain percentage of the grade level dropped. So you must have identified how many of the 350 were doing bad.

Ms. **Lynch**. I would say 300 of them had lower grade point averages than——

Mr. **Martinez**. Let's eliminate the 50. It is the 300 we are concerned about. Conversely, in my view, Coca Cola initiated a program to curtail droputs in two schools that were having the highest rates, Garfield and Roosevelt. The program they initiated was a program that in order for a kid to get and keep a job which they found for him, he had to stay in school. We found that program had great success. I would like to get a couple of copies of reports from those programs.

Of course we need to look at the violations of child labor laws. No where in our society should we tolerate violations of child labor laws. They were well thought out and put in place to protect young people. It was not created to give young people the right to go to work to forget about education.

Education is important. In today's world with the kinds of technologies developing that are developing and the kind of labor market we are going to have in the future. If you look at the work force 2000 study you will understand that back breaking labor and labor that was strictly brute force is no longer the major labor market of our country.

We are moving into a high tech era. We are going to need young people more trained, more educated that ever before, especially more educated in the sciences and math.

We have not done a good job. Japan has done a better job. They have more engineers. A lot goes back to early childhood practice. You mentioned that if a student is missing from school the parent has to go to school. I am not sure I would want to invoke that law here. We have laws in other countries that if a person goes to jail and escapes the innocent person in his family, a relative has to do his time. I don't think we are going to move into that kind of society. I have seen evidence that work does help certain kinds of people.

Maybe we have to determine where it does help and where it does not. That is why I am asking the questions now about the 300. Of that 300 that we say now did worse—because it is easy for a kid to make excuses why he doesn't do well in school. I had a thousand and I could probably give a kid a million today on why he doesn't do well in school or falling asleep and it may not be directed toward any employment. Did you try to go back to the 300 and determine how many hours each were working and if they were working in violation of the child labor laws?

Ms. **Lynch**. Not yet. This is the first study that was done. We need to continue with it.

Mr. **Martinez**. I think you need to. Here we have a group of 300 we are labeling a certain way. If we have not found out how many of these 300 were working in violation of the child labor laws, we have not built a case to determine that violations of the child labor laws were causing these kids to do wrong.

From the testimony we heard from the two young people here who evidently worked in violation of the child labor laws and it did affect their grades and educational prospects, we know that for a fact but I am interested in knowing how many.

Mr. Chairman, I would like to leave the record open and allow Mrs. Lynch to find out how many were working in violation of the child labor laws.

Mr. **Lantos**. We will certainly do that.

[Additional information supplied by Ms. Lynch on the survey is on file at the subcommittee office.]

Mr. **Lantos**. Congressman Schumer.

Mr. **Schumer**. Thank you. I want to thank all three of you for your testimony. There are many aspects to this problem and you have brought a different one to light than we have discussed before in terms of its impact on education.

Being cognizant of Mr. Martinez' point, people work for different reasons. Some because of economic necessity. When my parents worked in the depression they had to contribute to the food money and the other kinds of things there. This may be different.

I guess the question cries out because no law is going to give really what is right for each student. It depends on the individual situation, it depends on the family's economic situation, it depends on the kid himself. As Marty points out, work might be very good and helpful for school work in certain instances. The best way to make that work of course are the parents.

They know their child. They know their economic situation. They care about the future. I guess the question that cries out from all of this is where were the parents in all of this. I would like to ask Chris and Brian that question. Did parents try to say you are working too much or too little? Did they try to infuse their children with the notion that, hey, to get six more cassette tapes is really not as important as getting a B average so you can go to a State university system which will be a good place to be and also you can go there because it is a lot cheaper.

Where were the parents?

Ms. **Lynch**. Most parents operate under the assumption that when a child gets a job that the employer will work in compliance with the law. We found that. We also found that children do not blame work for what is wrong in school. When a parent says to a child, "Why are you failing?," work is the last thing they say. It is the teacher doesn't like me, the dog ate the paper, the whole routine.

When we interviewed the parents we found 40 percent of the parents were not aware of the New York State labor laws. When we asked them about the laws, they were not able to correctly identify the number of hours their child could legally work.

Two-thirds of those parents say it is the school's responsibility to inform them if the child's employment seems to be interfering with the school performance. At the same time, 10 percent of all parents with working children felt the child's employer violated the labor law.

Mr. **Martinez**. If you will yield, the point that comes through here in Mr. Schumer's question is the first thing they well tell the parents is that it is not work's fault. They tell the school it is work's fault. That is what you have to realize.

Mr. **Schumer**. You do not speak with any malice but you sort of have an Abbott and Costello act in that the schools say the parents should be responsible for looking at the balance between schoolwork and employment and the parents are saying the school ought to be responsible.

One thing that might be a good idea and I don't know if this is in the legislative province, it might be a good idea for schools to know how much the kids are working.

Ms. **Lynch**. That is what we are looking into.

Mr. **Schumer**. You did it in your survey. I had a job in high school. I ran a mimeo machine. That was the macho job, watching that thing go around and around and around. I was paid below minimum wage. I knew it but I did not bring it up. Minimum wage was 75 cents and I was paid 40 cents around to watch that machine.

Ms. **Lynch**. Like anything we do in society, if two people are arguing, whether it is at home or whereever, they get out of the disagreement because the other two people are arguing. With the school blaming the parents and the parents blaming the school, the child is able to continue on their merry way.

Mr. **Schumer**. I am talking about knowledge so somebody can come in. Then you have rebellion, teenagers don't want to listen to their parents or their school. We all went through this, too.

Ms. Lynch. One of the things we want to look into in New York, in New York when you turn 16 in order to get a license you must take a 5-hour defensive driving course given over 3 nights. It might be a benefit to tie that in, in order to get a working paper you need to take a 5-hour course where those things could be explained to you.

Mr. Schumer. At the very least during the driver education course you should be told your rights. Just because the employer does it, you know when we are younger we have the belief if an adult does it, it is OK. In Brian's situation it said on the wall, "This should not be operated by someone under 18."

So you knew it was wrong but when an adult says it is OK, it has to be OK.

Did your parents ever get involved in seeing your school work got done? Did you have fights about it?

Mr. Randolph. My father read the article in the paper about the New York labor laws. I was working until 11 o'clock at this time. I was only supposed to be working until 9 p.m.. He told me to tell them they had to let me out at 9 and he would be there at 9 to pick me up.

Mr. Schumer. So your parents were involved.

Mr. Randolph. This was iater on. It was my last job in the restaurant business.

Mr. Schumer. Were they upset about your declining grades?

Mr. Randolph. Yes. They attributed it more toward I was either procrastinating, I was lazy, or I had plenty of excuses, too.

Mr. Schumer. It seems from your testimony, although you don't say explicitly, that you really didn't realize until later that your job was taking away from your school work. You did not tie the two together?

Mr. Randolph. I knew it was happening. I don't think I realized the adverse effect it would have on me 2 years down the road when I am looking to graduate and go to college and my choices are now so limited because I wanted to make $3.75 an hour 2 years ago.

Mr. Schumer. Good point. Well put, Brian.

Mr. Locatelli. They were involved and they were concerned about the hours. I would tell them that work was not affecting it, I was falling behind this week and I would catch up. I liked the money. Every Thursday I would get a pay check and I got used to having the money. So I could not cut back on the hours or the checks would stop.

If I told them that work was affecting my school, they would have made me cut down on my hours or quit the job. At the time, I did not want to do that.

Mr. Schumer. There are many values that work can teach: One is to save, save for colleges, save for Christmas, save for something. The other side to that is we live in such a consumption oriented society. I see it in my children. They watch TV and they want everything because the commercials are so effective and persuasive. We live in such a consumption oriented society that you are sort of pushed in one direction to work. Oftentimes I, at least, find in your cases not the old time virtues of helping the family or of saving for some long time goal but rather got to have this, got to have that, got to buy this, got to buy that. That is modern America for better or worse.

Do you find, Miss Lynch, Chris, Brian, that some of the people in your high school work to save? Do some of them work to help support the family, single parent families, et cetera, or was the general pattern in your high school, an affluent area, just to have the money to buy something on somebody's mind?

Ms. LYNCH. We did not ask that but the students told me that they do not hand money over to their parents but it is one less thing Mom or Dad don't have to buy for them. They get into that and Mom and Dad don't have to come up with any money.

They also find other places to spend their money and no one wants them to lose their job because they don't want to come up with the extra money to replace it. They all get caught up in that. Another thing I asked the children in the survey, I want you to tell me the truth, think about your bank account. If you had the chance to take $55 and put it into your bank account for a text book next year when you go to college or spend money and get in line at the performing center for a rock concert, what would you do?

Mr. SCHUMER. I am sure the response was to save for the school book.

Ms. LYNCH. Eyes went down. They mumbled, I said I can't hear you. Finally they said, we would go to the concert.

Mr. SCHUMER. It is a human emotion.

Ms. LYNCH. We do get into that. Some save but then another expense comes up and they dip into it planning to replace it.

Mr. SCHUMER. The old ethic of savings seems to be declining further and further and further. That is a big problem we face, a different one. Brian or Chris, do you have any comments?

Mr. RANDOLPH. I know a friend whose mother cut him off at an early age and would not give him any money at all when he was around 13. He was very responsible the way he went about it. He saved and got himself a car so he could get a better job now that he can get to work. He is qualified for State aid for college. He has all his own money for college. His parents are separated and he is moving out this summer right out of high school. So the job in his case, he saved his money, he didn't spend it.

Mr. SCHUMER. Was he typical or were the other examples more typical?

Mr. RANDOLPH. He is extraordinary. I would not spend my money like that, I save nothing.

Mr. LOCATELLI. I saved quite a bit, but in recent times, I have had a few expenses that wiped out all I saved for the past 2½ years. So I took time away from my schooling to work and save money but the expenses wiped it out. Now I am left with very little money I had saved and I have noticed that my education has dropped because of working. But I have a lot of material things to surround myself with.

Mr. SCHUMER. This is a problem of our whole society, not just students.

One other question: Do sometimes students work because in a sense it is easier than school and it is sort of a copout in certain ways?

Mr. **Randolph**. It gives you——

Mr. **Schumer**. There is no grade or test. It maybe dull but——

Mr. **Locatelli**. The employer gives the student a feeling of responsibility. The student would rather go to work. A lot of times the school and work are related in that they have responsibilities except in one of them you don't have to prepare ahead of time and one you get paid for.

Mr. **Randolph**. The student feels instant gratification from a job when he sees a pay check. In school he is not instantly gratified when he knows there is a new continent on the map or he knows some historical fact, he doesn't say, yes, I learned this. When he gets a pay check he says, "Yes, I can spend this." It is definitely more gratifying to work. You see it in the short term, not the long term.

Mr. **Martinez**. Your teacher was not like Mrs. Lynch. She did not make the class interesting enough for you.

Ms. **Lynch**. He fell asleep in my class and he failed the first semester. He is now going to pass it and he will graduate.

Mr. **Martinez**. Are you working now?

Mr. **Randolph**. Yes, but I am self employed and I set my own hours.

Mr. **Martinez**. Have your grades improved?

Mr. **Locatelli**. No. I am just about done with my senior year. I have 1 week left. It is too late now to try to balance things out. I have gone through my whole high school career and I have not been able to balance work and school. Now that I am done, it is pointless to try to balance the two.

Mr. **Martinez**. Chris.

Mr. **Randolph**. I am very sketchy on school at this point. I have to pass everything. I am in the most incredible rush to hand assignments in, to have everything up to date that you can believe.

I am so tense right now. I had some concerts coming up that I have put off because of school and I canceled because I just have to graduate. I have no other choice right now.

Mr. **Martinez**. At least your priorities have improved.

Mr. **Randolph**. Yes, thank you.

Mr. **Lantos**. Congressman Pease.

Mr. **Pease**. Thank you, Mr. Chairman.

I too would like to thank all three of our witnesses. I would like to make one comment. I don't know how close Brian is to being able to graduate or not but Chris has told us he is on the border line of whether he will graduate or not. It seems to me from the testimony he has given us this morning it is clear that intelligence is not a problem. It must have been competing with the demands for your time that caused you to flunk some of those courses.

Ms. Lynch could you give us any insights on the work permit situation? Are work permits required for students and if so what is the system, does the school make a judgment about whether a student can work and still perform satisfactorily?

Ms. **Lynch**. In New York State the superintendent or his designee is assigned the responsibility of issuing work papers. At our school this designee is the guidance office. What a 14- or 15-year-old student does is go into the guidance office and pick up papers. They take them home for their parents to sign them. They get a physical and they return the papers to the guidance department with a green card with the hours on the back. Time constraints and employment problems make it impossible at this point for any district to do any kind of counseling or monitoring.

There has been no real effort on the part of business or educators or parents to call for that until this point in time.

Mr. **Pease.** Does the work permit have to be renewed periodically or not?

Ms. **Lynch.** It is my understanding that the work permit has to be—it depends on the age they get the paper, if they get them at 14, then they have to go back at 15. It is a yearly thing until they reach 17. The employer has to hold on to that green card while that child is on their payroll. When that child leaves the employment, the card is returned. The idea is that they cannot hold two jobs but many of them are so somebody is not holding those papers.

Mr. **Pease.** So in your experience your school guidance counselors in this case make no effort to determine whether a student is able to work and still keep up their school work.

Ms. **Lynch.** No. At our school the person is the secretary to the guidance department who does that. We are looking into ways of correcting that because of this committee and a lot of things and finally teachers getting together saying, enough, we have to do something.

There is a move to have an occupation counselor at our school who will work with students because certainly as Congressman Martinez said there is work that is beneficial for many students. It is a question of how much, where, and who is helping.

Mr. **Pease.** May I ask Chris and Brian questions about knowledge of the law? You both commented on this point before. Do you think it would be helpful if at the work site there had to be displayed prominently in large type, not small type, what the law is and whom to contact if a violation of the law is occurring?

Mr. **Randolph.** Yes, I think they should be but I don't know who would check this to see whether or not they were posted. I think if you did give them to the boss and he wants to exploit child labor he is not going to put them up prominently where they can see them. Maybe he will put them up in his closet or not at all.

I don't think the kids are going to know. I think we just have to reach the children and their parents and get them to know. Maybe a mailing, a packet with those laws to the households or something along that nature. I would say that when you receive your working papers that you and your parents sit down, maybe even for 10 minutes and go over what is on the back of this card. When you turn over that card to your employer, you do not know anymore what those laws are.

Mr. **Pease.** Brian.

Mr. **Locatelli.** Where I work now there are posters posted that do state the hours but not as to whom to contact. If someone was contacted, would something be done about it? On top of which, you are putting a lot of responsibility on a young teenager to take the responsibility on himself to think he is right over his employer who has been in the work force many, many more years than himself.

You are expecting the child to take the responsibility to contact the department to take care of the situation. I think it is more the employer's responsibility to be aware of the laws and be responsible for the laws rather than a teenager.

Mr. **Pease**. I might just state that in the bill that Congressman Lantos and Congressman Schumer and I have introduced we would speak to the work situation and try to required the school districts to pay some attention to the ability of students to carry out work and school at the same time.

Also we would require prominent posting of the information at the work site. We would also require that information be sent to the parents of the child at the time the working papers are applied for.

Thank you very much, Mr. Chairman.

Mr. **Lantos**. Thank you very much. We will be happy to have you stay.

We are now moving on to Mr. Joseph Curley. Mr. Curley, before you begin your testimony, let me express my personal deep appreciation for your being here. I know this is difficult but you are performing a very real public service.

STATEMENT OF JOSEPH CURLEY, WEST PITTSTON, PA

Mr. **Curley**. Mr. Chairman and members of the committee, I very much appreciate this opportunity to relate to you the facts of the case involving the death of my 15-year-old son, Kevin, in a bakery accident shortly after midnight on October 26, 1986. My views on legislative needs on this matter may be but one small voice, and painful though it may be to revisit our saddest of moments, I am compelled to do in Kevin's name. At the outset may I state that I bear no animosities towards the family that owned the company that employed my son: they are neighbors and friends and hurt as we do. In retrospect, the family wishes that child labor laws were so stringent as to make it unthinkable to have employed my son.

Mr. Franklin Frazier of the GAO has previously documented and testified for this subcommittee as to the massive nature of the child labor problem. My focus, owing to my personal situation is limited to hazardous occupation standards of the Fair Labor Standards Act. I do not believe child labor, per se, is evil. I believe there is virtue in raising one's children to be responsible. Part time jobs and the responsibility that goes with them have been am important part of raising our children. Kevin's two older brothers carried newspapers for 9 years. His sisters were well trained babysitters. The three oldest of my children have used part-time employment to help finance their college education.

My son was accidentally killed while cleaning a horizontal dough mixing machine. He was employed in violation of Pennsylvania State child labor laws. Never in our wildest imagination did we, as parents, think a bakery would utilize such dangerous equipment so as to put our son's life in peril. Our knowledge of his duties was that he was employed for the purposes of "bagging rolls." He worked on Saturday evenings only. The evening of his accident was the fifth or sixth time he had worked for the bakery. He was employed after permitted hours, without working papers, compensated in cash "under the table" for a flat dollar amount per evening, and his social security number was furnished to the employer after the fact of his death. These facts notwithstanding, he was judged to have been a "covered employee" under the provisions of Pennsylvania's workmen's compensation insurance laws, and as such, denied the right to file civil suit against his employer.

The owners of the bakery subsequently entered a guilty plea to the charges of child labor law violations for which they were assessed a fine of $200. This fact has been irreconcilable in the minds of my four remaining children in spite of my repeated attempts to explain that State labor law violations do not address the issue of death of one so employed.

Our avenues of pursuing some measure of justice in this tragedy were somewhat limited because the bakery was not involved in interstate commerce and State jurisdiction applied. Initially, civil litigation was contemplated on a product liability basis, however for a variety of reasons, this avenue was closed. The all-embracing arms of a very antiquated set of Pennsylvania workmen's compensation laws applied and the resultant hearing attempted to determine my dependency on my son's earnings. The heretofore "presumed dependency" of the parents was being challenged by the insurance carrier. Because of the violation of State child labor, the State workmen's compensation law had imposed a 50 percent penalty to be assessed on the employer and added to the compensations benefits should I be found "dependent" and entitled to benefits. In the case of a normal child/parent relationship that would be next to impossible in all but the rarest of circumstances. Therefore, the employer's penalty would be a moot point and the intent of the "penalty clause" would have been subverted. Over a lengthy period of 8 months on the part of an indecisive compensation referee, with very little hope in the proof of dependency argument, a small settlement was agreed upon. The alternative was a precedent setting appeal on the parental "presumed dependency" challenge which would have resulted in significant legal costs to pursue the appeal and at most a $55 per week benefit.

I commend Congressmen Pease, Schumer, and Lantos for their much needed efforts in this area of child labor law, as well as Senator Metzenbaum for his efforts in the Senate. I believe the publicity which the hearings and the recent Labor Department "sweep" has generated has had a very beneficial and educational effect on the general public.

I believe, having lost a son because of these horrible practices, that stiff fines and criminal punishment may be only part of the answer. There must be some form of redress to the families so victimized.

I believe that Federal law should take precedence over State law where child labor violations have resulted in injury and/or death.

I believe that State workmen's compensation insurance should be set aside and civil liability insurance of the employer should be the first avenue of attack where child labor law violations have resulted in injury and/or death. The premiums charged by insurance underwriters would effectively augment the policing efforts of the Labor Department's force of approximately 1,000 investigators. Significant premiums for this coverage would make it an effective deterrent and not just another cost of doing business.

I believe a more definitive set of child labor guidelines should be established reflective of the labor market in today's workplace. Defined hazardous occupations and duties must be made a part of a working permit to which parents must sign off. A nationally administered "work permit" is a must to bring about the uniform enforcement of the law and the data collection of which we are so much in need. "Work permit" violations must be dealt with severely.

And finally, I believe that no parent or family, however trusting, however much in need, however ignorant of the laws or conditions of the workplace, should ever suffer the ultimate loss of a child/brother as has my family.

A memorial scholarship was established in our son's name, to which more than $24,000 has been contributed and, after more than 3 years, donations continue to be received. Kevin was an honor student and ranked 4th out of 207 students. He was a very popular class leader and was very active in school, church, and community activities. He was bursting with futurity—full of enthusiasm, of plans, of promise and hope for the future. His untimely death had a severe impact on his peers, his school, and the community in which he lived.

On a personal note, our lives are divided into before and after. We think of him very often, every day; before, we did not. We gather as a family, there is always one less: before, holidays were happiness. We visit his grave each week: before. he had no grave. His death has changed our lives as not other event could. Nothing fills the void of his absence. He is not replaceable—we can't go out and get another just like him.

It is wrong, profoundly wrong for a child to die before his parents. The burial of one's child is a wrenching alteration of expectations.

Gentlemen, I cannot strongly enough urge you to enact legislation which will help spare other parents the grief we as a family attempt to cope with each day of our lives. There is nothing to be gained by us; we cannot turn back the hands of time. I beg of you, do it to protect our dear children.

I will make available for the use of your committee, if you so request: a, a copy of the accident report, b, copies of newspaper articles covering the tragedy, the investigations, and the associated human interest stories, and c, a copy of the deposition taken from the only witness to the tragedy.

This concludes my statement. I will be glad to answer any questions you may have. Thank you.

Mr. Lantos. Mr. Curley, we are deeply grateful to you. I will consider it a privilege to send a contribution to the memorial scholarship fund.

Mr. Curley. I appreciate that Congressman.

Mr. Lantos. We will next hear from Mr. and Mrs. Hucorne, Claude and Jackie. You may proceed in any way you choose.

STATEMENT OF CLAUDE AND JACKIE HUCORNE, PARENTS OF MICHAEL, EAST STROUDSBURG, PA

Mr. **Hucorne**. We are the parents of Michael Hucorne, who was 17 years old and employed part time by Weis Food Market in East Stroudsburg, PA.

On January 1, 1988, at approximately 1:30 p.m., Michael was engaged in operating a compactor baling machine after being ordered to "make a bale" by his supervisor. Toward the end of the work, and while operating the machine, Michael became positioned between the top of the compactor and the lower compacting level of the machine, in amongst the moving hydraulics. Prior to his become so positioned, Michael was attempting to reach into the machine to extract paper materials that had become caught during the baling process and in the movement of the ram. There was no ability to stop the ram in its upward movement once it commenced its cycle and Michael became lodged near the top of the machine. There were no instructions at, on, or near the machine in relation to stopping it at points in its cycle or in the case of emergencies.

The manufacturer was called in Ohio, after some time, it was suggested the rescuers try to cut the hydraulic hoses, which allowed Michael's body to be extricated from the machine, but not in time to save his life. He was pronounced dead from compression asphyxiation after being in the machine 30 to 45 minutes.

The activity of operating such a machine is an extremely hazardous activity. The area around the machine was slippery and unsafe and the machine was defectively designed. And Weis Market violated Federal law by verbally instructing an underaged employee to use a dangerous instrumentality.

As a result of these violations, Weis Market received a fine of $250. Their conduct was clearly outrageous and reckless, yet under the workmen's compensation act they were granted immunity from a civil suit.

When child labor laws are not strictly enforced, and employers are allowed to hide behind a shield such as workmen's comp, then they have nothing to fear from the exploitation of teenagers in the workplace.

My wife and I are here today to bring much needed attention to this very real problem; there are 31,00 reported injuries a year and 60 deaths, a number that has increased 150 percent in the last 6 years. With statistics such as these, it should become apparent that existing child labor laws are not effective. We need stricter enforcement, heftier fines, shut downs, and jail sentences for employers who are repeat offenders.

We need safe machines, ones that are properly equipped with safety mechanisms and ones with adequate instructions.

We are a Nation that tries to protect its children; does that protection stop when they go to work?

Mr. **Lantos**. Jackie, Claude, we are very grateful to you. We will take all of your recommendations very, very carefully in consideration in reviewing our own legislation.

I know I speak for all of my colleagues in expressing our deepest appreciation for your appearance here today. Are there any questions my colleagues would like to raise? If not, may I thank you.

The subcommittee will stand in recess for 5 minutes.

[Recess.]

Mr. LANTOS. The subcommittee will resume. I would like to ask whoever in the audience is standing to please take seats.

Our next panel is comprised of Mr. Barry Gibbons, chief executive officer, the Burger King Corp., Mr. P. David Black, president of the Domino's Pizza, Inc., Mr. Stanley R. Stein, senior vice president of the McDonald's Corp., Mr. David Deal, senior executive vice president, Little Caesar Enterprises, Inc.

Will you gentlemen please stand and raise your right hand.

[Witnesses sworn.]

Mr. LANTOS. Before we hear from our witnesses, the Chair would like to indicate for the record that we have invited the chief executive officers of all of these organizations. We are glad to have you, Mr. Gibbons, here, Mr. Black here, Mr. Stein you are senior vice president of McDonald's. My understanding is that the president of McDonald's had a conflict today and has submitted various dates when he will be able to appear or if he has not yet done so, he will do so.

Mr. STEIN. That is correct.

Mr. LANTOS. We shall accommodate to his schedule. Mr. Deal you are senior executive vice president of Little Caesar's. We have been unable to obtain a commitment of a date from the chief executive officer of your company to appear before this committee. I am suggesting that within the next 2 weeks we receive three dates for the month of July and three dates for the month of September when the president of your corporation will appear before this subcommittee. Otherwise, we will be obliged to move in other directions.

Mr. DEAL. I have those dates with me today.

Mr. LANTOS. Very good. I appreciate that.

Before we begin with the witnesses, let me just state for the record that obviously much of the activity of all these organizations is of great value. But we have to focus on arenas where there are clearly problems.

Those are, as of today's hearing, the field of child labor law violations. It is our earnest hope that as a result of these hearings, all of our witness' organizations and others in the industry will do their utmost to clean up the record which has not been good in the past.

The purpose of these hearings is to see to it that we move as close to a perfect record as is humanly possible. With this expression of hope we begin with you Mr. Gibbons. Your entire prepared statement will be entered into the record and you may proceed in any way you choose.

STATEMENT OF BARRY J. GIBBONS, CHIEF EXECUTIVE OFFICER, BURGER KING, CORP.

Mr. GIBBONS. Mr. Chairman and Congressmen, my name is Barry Gibbons. I am the chief executive of Burger King Corp. Before I start could I join the subcommittee in saying that I found the last two testimonies particularly harrowing as a parent and as a businessman.

I would like to confine my testimony to relevant background information and summary statements.

First some information: Burger King Corp. is the world's second largest hamburger chain. It originated in the United States 36 years ago and now has over 6,000 restaurants in 36 countries. Systemwide, the corporation and its franchisees employ approximately 270,000 people which includes 36,000 direct employees.

There are 887 of our restaurants owned and managed by the corporation and the majority of those are in the United States. Burger King Corp. is, and I quote, under new management. It was acquired as part of the Pillsbury group by Grand Metropolitan in January of last year.

The new parent company, although it is headquartered in London, has extensive additional businesses in the United States and across the world.

In March of this year, the Department of Labor filed suit against Burger King Corp. for alleged child labor law violations in its company restaurants.

Now, discussions around the allegations are still continuing with the Department of labor, and the hearing itself is not scheduled until October of this year, but it is open knowledge that the alleged violations exceeded 900 in total.

Against that background information, I would like to make the following summary statements. First, the alleged violations date back to 1986. Virtually 90 percent of the alleged violations predate the acquisition of Burger King by Grand Metropolitan. Now, there is no question that Burger King has had a poor record in this area, and there can be no question that I accept responsibility for that record. The Department of Labor has knocked on my door, made a collect call, and there is nobody home but me. I am understandably frustrated—personally and on behalf of my company—but I recognize we acquired negatives as well as many positives with Burger King. I am committed to making as an exemplary example of how a major restaurant chain should be run in every aspect.

In the immediate period after acquisition last year, a contested acquisition, there was considerable activity. After a year, I can almost now smile when I say that.

Almost every aspect of the corporation, from its fundamental organizational structure to its restaurant menu board, was significantly changed. During that turbulent period, we became aware that the inherited problems with child labor law violations still existed. We instituted a series of changed policies and procedures which are detailed in my written testimony.

As a result of those actions, the Department of Labor recorded only 12 child labor law violations in our company restaurants from May 1989 until March of this year. All of those have been timing violations rather than hazardously occupational in nature.

Now, am I happy that it has been only 12? No. Am I happy that they are timing violations against occupational? A violation is a violation as far as I am concerned. Do I believe that there have been absolutely no other violations in my company restaurants other than those noted and cited by the Department of Labor during the last year? No. That would be unreal. So we have not stopped. We are continually strengthening our policies and procedures.

We now hire 14 and 15 year olds only in the context of a supervised work-study program, which brings together parents, school, and employer. We restrict their work hours even more than the Federal law requires. In addition, we have recently contracted with the National Child Labor Committee to further assist us in evaluating and improving our programs. Jeff Newman, their executive, is with us today should you wish to look into some of those programs further.

I asked some questions earlier and gave, "no," as an answer. Do I believe the actions taken have massively addressed the issues, the awareness of my no-compromise approach and the awareness of the painful consequences of noncompliance in Burger King? Yes, yes, and yes.

Let me finish with the position of Burger King Corp. today. In my company restaurants, the training in law and its compliance is thorough and mandatory. Everybody is made aware of policy, including the teenagers themselves. I would remind you that the policy is tighter than the law.

By written and oral message—through voice mail—I have personally and clearly communicated to all management, including restaurant management, that noncompliance will result in summary dismissal from the corporation.

Our business relationship with our franchisees is clearly defined by law and our franchise agreement. That agreement states the expectancy that our franchisees will obey all laws relevant to independent retailers. Thorough training in this area is a mandatory part of the process of becoming a franchisee. Extensive free follow-up training is available. Over the last year our franchisees have been clearly reminded of their responsibilities, and we have kept them informed of how we have adapted our own policies.

Again, I have personally and clearly outlined to every franchisee the sanctions we will apply if they break the franchise agreement by violating the child labor laws, or indeed any other.

Mr. Chairman, I cannot pretend to be pleased about the reason that I was invited here today, but I do welcome the opportunity to talk about the progress we have made since acquisition.

There is another aspect that I welcome. I recognize that this is a major and a complex issue in America today. But in corporations like mine that are massive employers of teenagers, it boils down to management commitment. A corporation's management commitment can rest on no other shoulders than its chief executive. I, as chief executive of Burger King, welcome the chance to indicate to you that if my corporation's historic management has been part of the problem, my commitment can be part of the solution.

Gentlemen, thank you.

Mr. LANTOS. Thank you.

[The prepared statement of Mr. Gibbons follows:]

TESTIMONY OF

BARRY J. GIBBONS, CHIEF EXECUTIVE OFFICER

BURGER KING CORPORATION

BEFORE THE EMPLOYMENT AND HOUSING SUBCOMMITTEE OF THE

HOUSE GOVERNMENT OPERATIONS COMMITTEE

JUNE 8, 1990

TESTIMONY OF BARRY J. GIBBONS

Good morning. My name is Barry Gibbons and I am the Chief Executive Officer of the Burger King Corporation. I have served as Burger King's CEO since Grand Metropolitan, PLC (Grand Met) acquired the company in January of 1989. I am pleased to be here today to present Burger King's views on the subject of compliance with child labor provisions of the Fair Labor Standards Act (FLSA).

Let me begin by stating that we at Burger King strongly agree with you, Mr. Chairman, that compliance with child labor law is a very important issue which requires the careful attention of both industry and government. It is Burger King's firm position that we cannot, and will not, tolerate child labor violations. As my presence here today will illustrate, we are committed to responsible employment of youth in the workplace, especially at the entry level. We also have a very strong commitment to education. We believe that the two must go hand-in-hand.

It is apparent that, prior to Grand Met's acquisition of Burger King, there was an unacceptable record of child labor violations. Since the acquisition, we have taken significant, and we believe successful, strides toward remedying the situation. Mechanisms for complying with applicable laws have been strengthened to the point where our policy is more restrictive than the FLSA, and efforts have been made to further ensure that Burger King provides its employees with a safe, healthy work environment.

I would like to begin by providing you with some relevant background on the Burger King Corporation.

I. BURGER KING, ITS WORKFORCE AND ITS COMMITMENT TO EDUCATION

Burger King was founded in 1954 as a single restaurant in Miami, Florida. Over the last thirty-six years, Burger King has grown to become the nation's second largest fast food hamburger restaurant chain, with more than 6000 restaurants worldwide. Approximately 900 of these restaurants are owned by the Company, with the remaining establishments owned and operated under franchise agreements. Burger King Corporation and its franchisees employ approximately 270,000 persons systemwide, including approximately 36,000 Company employees.

The Corporation itself is a large employer of America's youth, teaching many young people responsibility, interpersonal skills, and teamwork. Approximately 25% of the Company's workforce is under eighteen years of age. While the Company does not encourage the employment of persons younger than sixteen, we do provide limited employment opportunities, including work-study programs, for fourteen and fifteen year olds.

Burger King recognizes the value, not only of work experience, but also of a solid education. For many years, the Burger King Corporation has dedicated a substantial amount of time and resources to developing and implementing a wide range of education-oriented programs.

For instance, in 1985, the Company implemented Crew Education Assistance Programs (CEAP) to enable hourly employees to earn up to $2000 in bonus credits that could be applied towards educational expenses at licensed and/or accredited colleges, universities, and vocational or technical institutions. Since that time, more than 7000 crew members have joined the program, earning themselves more than $5 million in bonus credits. At the Company's urging, approximately 100 educational institutions have agreed to provide CEAP participants with matching funds. Thus, some hourly employees will be able to earn up to $4000 in direct funds for education by working at a Company-owned restaurant.

Since 1986, Burger King has also awarded $1000 college and vocational school scholarships to more than 400 meritorious crew members. Furthermore, it recently established scholarship programs at six historically black colleges.

The Company's involvement in education extends beyond these programs. One of its more substantial commitments is its joint sponsorship of Burger King Academy, a program designed to combat the nation's chronic school dropout problem. Currently established in seven communities nationwide, each Academy provides approximately 100 troubled students with specialized, fully-accredited academic instruction, as well as with counseling and on-the-job training. Another three Academies will open in September 1990.

In addition, Burger King coordinates and sponsors the annual "Burger King Honors Excellence" symposium, a program designed to honor, as well as draw ideas from, the nation's outstanding Teachers and Principals of the Year. In recognition of this program, Burger King received the Presidential Citation Award for Private Sector Initiatives.

Finally, Burger King is a sponsor of several CloseUp Foundation Programs, including the Civic Achievement Award Program (CAAP). Burger King's involvement in this program will enable more than 360,000 elementary school students to learn more about their government this year and will involve millions of students in the years ahead.

Through the implementation of these and other programs, we believe that Burger King's commitment to education will assist American youth in obtaining the training and development necessary to become productive members of the workforce.

II. THE DEPARTMENT OF LABOR LAWSUIT AND BURGER KING CHILD LABOR COMPLIANCE EFFORTS

As you know, on March 7, 1990, Elizabeth Dole, on behalf of the U.S. Department of Labor (DOL), filed suit against Burger King Corporation for alleged child labor law violations in its Company-owned stores. While ongoing discussions with the Department of Labor make it inappropriate to elaborate on this issue, I would like to provide the Subcommittee with a basic understanding of the lawsuit and of Burger King's efforts to improve the Company's past record.

The violations alleged by DOL date back to September 12, 1986, with the vast majority of the charges (88.8%) recorded prior to Grand Met's acquisition of the Company in January of 1989. An extremely small percentage of the charges (1.2% or 12 violations) apply to conduct which allegedly occurred following Grand Met's reorganization of the Company.[1]

Based on information we received from the Department of Labor, approximately 90% of Burger King's alleged violations are based on hours infractions. It is our understanding that a significant number of these infractions involve young employees working less than five to thirty minutes after the mandated quitting time of 7 p.m. This strongly suggests that many of our alleged infractions were not a result of scheduling employees to work longer than is legal. Rather, accidental or informal practices sometimes prevented employees from clocking out on time.

While a small percentage of the alleged violations do concern safety-oriented infractions, even this number has dramatically declined over time. From September 12, 1986 to December 31, 1988, roughly 11% of the alleged violations involved young employees performing food preparation tasks considered inappropriate to young employees' age and experience. This

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1/ As the attached diagram illustrates, DOL has charged Burger King with committing 953 violations between September 12, 1986 and March 28, 1990. Most of these alleged violations (846) occurred before December 31, 1988, prior to Grand Met's acquisition of Burger King. A small number of the alleged violations (95) were recorded between January 1, 1989 and April 2, 1989, a period which closely coincides with Grand Met's restructuring of the company. Subsequent to April 3, 1989, the suit alleges that an additional 12 violations took place.

number declined to approximately 1% of the alleged violations between January 1 and April 2, 1989. None of the lawsuit's alleged violations after April 3, 1989 were Occupational Standards violations.

While Grand Met does not and will not tolerate violations of any kind, the infractions alleged in the DOL lawsuit do not involve substantially overworking young employees or subjecting them to hazardous work conditions in a "sweat shop" environment.

We believe that implementation of our improved child labor law compliance program has helped to reduce significantly the number of violations and to bring Burger King closer to achieving full compliance. I would now like to outline for the Subcommittee some of the steps Burger King has taken in this regard over the past 14 months.

A. Burger King Procedures Regarding Child Labor Law Compliance In Company-Owned Stores Prior to the DOL Lawsuit

When Grand Met acquired Burger King, it utilized a number of measures to elevate awareness of the child labor laws and to emphasize Grand Met's strong commitment to this issue.

First, Burger King reinforced its management training programs to place greater emphasis on compliance with child labor laws. For example, compliance with child labor provisions are included as a major component in free training programs offered to all assistant managers of Company and franchisee-owned stores. This program is mandatory for all assistant managers at Company-owned stores. This training details: age restrictions on employment; the number of hours that young employees can work per day and per week; the time periods that these employees can work; and the different occupational restrictions placed on their employment. Moreover, a "primer" on compliance is set forth in the Assistant Manager Orientation Packet.

The importance of compliance with child labor laws are also stressed in other training measures. For example, a substantial number of Burger King markets run instructional programs on child labor compliance at restaurant manager and company operations manager meetings. All of these training and instructional programs encourage restaurant management to ask questions about relevant provisions of the law.

Second, compliance with child labor law was made a top priority of Senior Management at Burger King. As a result, a number of compliance measures were adopted in various markets. For example, in some markets, minors' time cards were stamped to reflect time restrictions and to act as a constant reminder both to the schedulers and to the minor employees. In the San

Francisco market, tests were administered to restaurant management to ensure familiarity with the law.

The success of our compliance efforts is reflected in the dramatic decline in alleged violations reported since April of 1989. We, however, recognize that there is still room for improvement and we want to work with you and DOL to ensure better compliance.

B. Additional Actions That Have Been Taken In Company-Owned Stores Since The DOL Lawsuit

Since DOL filed its lawsuit on March 7 and the Subcommittee held its first hearing on March 16, Burger King has taken additional steps to improve child labor compliance at Company-owned stores. One of the first measures taken was to sanction those who had committed labor violations, through termination, suspension or the issuance of final written warnings.

In addition, we have adopted a new Company Restaurant Policy on Child Labor Employment which imposes limitations on the hiring of 14 and 15 year olds which are significantly more restrictive than the child labor provisions of the FLSA. I would like to discuss some of the highlights of this policy for the Subcommittee.

Specifically, Burger King now only hires 14 and 15 year olds who are part of a supervised work-study program (a joint partnership of schools, parents and employers) and who maintain at least a "C" average.

Moreover, Burger King's policy prevents 14 and 15 year olds from working more than 2 1/2 hours per school day, whereas the FLSA sets the limit at 3 hours per school day. Our policy also prohibits 14 and 15 year olds from working more than 5 days within one week, in contrast to the federal limit of six days. With regard to hourly restrictions, the Burger King policy prohibits 14 and 15 year olds from working after 6 p.m. on school days, whereas the FLSA cut-off is 7 p.m.

Training programs have been revised to reflect this new policy. The policy will differ slightly for those currently employed 14 and 15 year olds who are not part of a work-study program. While these students are in school (school year or summer school), they will be scheduled only for weekend shifts. Such employees will work no more than 7 hours per day and will not work before 8 a.m. or after 6 p.m.

Furthermore, we have taken a number of actions to emphasize to operation management employees the seriousness of child labor law violations and to remind them that such violations are grounds for termination by the Company. In recent correspondence to restaurant personnel, I have indicated that violations "will be treated with the utmost severity" and that "[t]hose responsible will be summarily dismissed from the corporation."

This statement has been reinforced in our Company Restaurant Policy which provides that persons violating state or federal law are subject to automatic termination. Persons violating the company's more stringent policy will first receive a written warning and will then be subject to termination upon a second violation.

C. Future Actions

Burger King is committed to achieving as close to full compliance as possible. To this end, Burger King has recently formalized a relationship with the National Child Labor Committee (NCLC) to undertake an assessment of our current programs, training and practices relating to child labor law compliance. As you may know, NCLC, which was founded in 1904, is one of the nation's first organizations dedicated to the eradication of child labor abuses. Mr. Jeffrey Newman, Executive Director of NCLC, has accompanied me to this hearing today. Grand Met and Burger King are pleased that he will be reviewing our practices and assisting us in implementing his recommendations.

In addition, we have established a Compliance Task Force consisting of Senior Human Resources personnel. The Task Force is currently exploring a number of additional initiatives. These include programming the cash registers to lock 14 and 15 year olds out of the register 15 minutes prior to the end of their shifts and developing a system which centralizes information on employee hours worked, thereby alerting Company management of misconduct at restaurants.

These options do not purport to be inclusive. They do, however, provide a sense of the types of activities that Burger King is considering to improve upon its compliance record.

III. BURGER KING FRANCHISEE COMPLIANCE

Shortly after DOL filed its lawsuit against the Company, the Department undertook a three-day sweep to uncover child labor violations in a variety of industries. In the course of the sweep, a number of Burger King franchises have been charged with child labor violations.

While franchisees are independent business persons, we at Burger King Corporation expect them to abide by those federal, state, and local laws which affect our business. In that regard, franchisees have been regularly informed about child labor provisions and the importance of compliance. Furthermore, they may participate in free training programs, offered twice monthly, which include instruction on compliance with the child labor provisions of the FLSA.

Franchisees also attend other Burger King sponsored meetings and forums at which legal compliance is discussed. In those instances where franchisees conduct their own training of restaurant managers, Burger King Corporation shares its training materials with the franchisees' instructors.

Burger King views compliance with the law as important to ensuring the continued existence of the franchisor/franchisee relationship. The results of the Department of Labor's Operation Child Watch, however, indicated that additional actions need to be taken. In this regard, we have recently written to all franchisees outlining the new Burger King Company Restaurant Policy on Child Labor Employment. As reviewed above, this policy is more stringent than the child labor provisions of the FLSA.

Additionally, in a recent letter to franchisees, I outlined the consequences of non-compliance with existing federal and state laws, including termination of the franchise agreement. Specifically, I stated:

> If a franchisee knowingly flaunts the law, it is a default that can lead to termination - an action which we won't hesitate to take in the appropriate circumstances. . . .
>
> Where significant violations occur, albeit without the knowledge of the franchisee, all expansion opportunities will be suspended for one year. If there is a significant repeat during that year, the franchisee is classified unexpandable. If there is a third repetition within that period, the Franchise Agreement is subject to termination.

We believe that the actions we have taken and the stiff penalties to be imposed will encourage and improve franchisee compliance with child labor law.

IV. CONCLUSION

Mr. Chairman, as you know, Burger King is a company that is under new management. Grand Met has moved aggressively to put it in order and to clean up problems with child labor law compliance. These efforts have clearly paid off with regard to Burger King's company-owned restaurants and now we are taking even further measures to tackle franchisee compliance. We feel confident that with time, and with the assistance of the National Child Labor Committee, we can help ensure that future violations will not occur.

Let me close by expressing Grand Met's commitment to accomplishing our mutual objective of providing a safe, constructive and appropriate workplace for our youth. As we have outlined in this testimony, Burger King will continue to work to provide such an environment.

Mr. Chairman, we support your commitment and stand ready to work with you and other interested Members to remedy abuses of the child labor laws and to improve and expand the training and employment of our youth.

Child Labor Law Violations

Before and After Grand Met Acquisition

Time Span	Total Hours Worked Violations 15 & 14 year olds	Total Occupational Violations 15 &14 year olds	Total Violations
Pre-Grand Met Acquisition of Burger King (Sept. 1986 - Dec. 1988)	749	97	**846 or 88.8%**
Post-Grand Met Acquisition/Pre-reorganization of Burger King (Jan. 1989 - March 1989)	94	1	**95 or 10%**
Post-Grand Met Reorganization of Burger King (Apr. 1989 - March 1990)	12	0	**12 or 1.2%**

6/5/90

Mr. **Lantos**. Mr. David Black, president of Domino's Pizza. Mr. Black.

STATEMENT OF DAVID BLACK, PRESIDENT, DOMINO'S PIZZA, INC.

Mr. **Black**. Mr. Chairman, on behalf of Domino's Pizza, Inc., I would like to thank you for the opportunity to address your subcommittee on the issue of Domino's Pizza's policies concerning the employment of persons under 18 as requested in your letter.

Domino's Pizza is proud of the role that we and our franchisees have played in providing a leg up on that first rung of the ladder for literally hundreds of thousands of young Americans—and now citizens of other nations as well.

I myself am an example of someone who began the transition from school to the work force by delivering pizzas, and as the president of Domino's Pizza, I am proud that Domino's Pizza teaches young people many of the skills necessary to excel in the competitive society of today.

As you may know, Domino's Pizza has grown quite rapidly during the 1980's. Over the course of the 1980's, we went from 340 stores in 14 States to over 4,788 stores in all 50 States, roughly one third of them owned by Domino's Pizza, Inc., and two thirds of them owned by the independent businessmen and women. Domino's Pizza's rapid growth came from within, for rather than selling franchises to people from outside the company, franchises have been granted to our employees—almost all of whom started out by delivering pizzas.

We have always directed the managers of our corporate stores and the owners of our franchises to strictly adhere to the laws of both the United States and national. Because a large part of our business involves the delivery of pizzas—Domino's Pizza delivery people drive hundreds of millions of miles a year—we take that part of our business very seriously. It is something we stress both to our own stores and those run by the independent businessmen and women who operate our franchises.

Mr. Chairman, several weeks ago your committee heard the testimony of Suzanne Boutrous about the death of her son, Jesse Colson, who died in a car accident in June 1989 while returning to a store after delivering a pizza ordered from a Domino's Pizza franchisee.

The death of Jesse Colson had a profound effect on Domino's. I think it is important that you know how Domino's Pizza reacted to this tragic event, how sorry we are about it, and why we are so determined not to have repetitions of it.

Throughout the 1980's, we constantly strived to implement and update a management system over our rapidly expanding network of stores that would serve to stress safety. Domino's Pizza Inc. has worked with agencies such as the national safety council to implement safe driving courses for our employees. We also employ the services of former law enforcement officers within our system to assist in creating other safety programs. Still, we want to do more.

Prior to Jesse Colson's death, persons under the age of 18 could be employed to work inside the store only. Unfortunately, that is a case that was not followed within this particular incident.

Within 3 weeks of Jesse Colson's death, Domino's Pizza initiated a policy whereby we would no longer hire anyone under the age of 18 for any job in a pizza store. Since June 1989, we have gone from having over 3,000 minors employed by Domino's Pizza Inc. to 305 at present, who must work inside the store only.

Mr. LANTOS. Go a little more slowly so we can follow you.

Mr. BLACK. This number is made up of the remainder of the young men and women who worked for us before we instituted this policy, and who we allowed to keep their jobs. So we have gone from having 10 percent of our work force comprised of minors to our present level of about 1 percent. Soon that figure will be zero.

Over the summer of 1989, following the death of Jesse Colson, we made a number of significant changes in the way we do business.

For example, we developed a form by which those minors remaining on our work force signed a pledge not to drive while on the clock—anybody that was under the age of 18 signed a pledge that they would not drive for Domino's Pizza. We also have the manager sign that form.

We initiated a systemwide audit system by which we could track whether our stores were in fact employing minors as drivers.

We prepared and delivered a labor law booklet and sent them to our franchisees so they would be reminded of what our policies were.

Domino's Pizza Inc. and representatives of our franchise community adopted a standard to the effect that employment of a person under the age of 18 to operate a motor vehicle is a reason for termination of their franchise agreement.

We developed a system of tracking—we call them MVR's, for motor vehicle reports—by which we could track the driving records of all our drivers, to ensure they are good drivers.

We made 8 hours of safety class a condition of employment.

Now, Mr. Chairman, we are certainly not perfect. Recently, we were notified that one of our corporate stores was cited by the Department of Labor for permitting a minor to deliver a pizza—a minor was one of those teenagers "grandfathered" in under our 1989 program. When this happened, we took action, firing the manager and demoting the supervisor. I can assure you that this action will be communicated throughout our system.

The fact that with 100,000 employees in our corporate stores and franchises, we have "only" had 32 violations of child labor laws cited by the Department of Labor isn't good enough for us. As far as we are concerned, that is 32 too many.

Thank you for allowing me to be here today, and I look forward to cooperating with you in any way I can.

Mr. LANTOS. Thank you.

[The prepared statement of Mr. Black follows:]

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Telephone 313 930 3030

STATEMENT BY P. DAVID BLACK
PRESIDENT, DOMINO'S PIZZA INC.
BEFORE THE HOUSING AND EMPLOYMENT SUBCOMMITTEE
HOUSE GOVERNMENT OPERATIONS COMMITTEE
JUNE 8, 1990

Mr. Chairman, on behalf of Domino's Pizza Inc., I want to thank you for this opportunity to address your Committee on the issue of "Domino's Pizza's policies and practices concerning the employment of persons under 18," as you requested in your letter.

Domino's Pizza is proud of the role that we and our franchisees have played in providing a leg up on that first rung of the ladder for literally hundreds of thousands of young Americans -- and now citizens of other nations as well. I myself am an example of someone who began the transition from school to the workforce by delivering pizzas, and as the President of Domino's Pizza, I'm proud that Domino's Pizza teaches young people many of the skills necessary to excell in the competitive society of today.

As you may know, Domino's Pizza has grown quite rapidly since it was founded in 1960. Over the course of the 1980's, we went from 340 stores in 14 states to over 4788 stores in all 50 states, roughly one third of them owned by Domino's Pizza Inc., and two thirds of them owned by the independent businessmen and women who make up our franchisees. Domino's Pizza's rapid growth came from within, for rather than selling franchises to people from outside the system, franchises have been granted to our employees -- almost all of whom started out by delivering pizzas.

We have always directed the managers of our corporate stores and the owners of our franchises to strictly adhere to the laws of both the United States and the localities where our stores operate. Because a large part of our business involves the delivery of pizzas -- Domino's Pizza delivery people drive hundreds of millions of miles a year -- the federal and state laws governing who may or may not engage in operating vehicles is something we take particularly seriously. It's something we stress both to our own stores and those run by the independent businessmen and women who operate our franchises.

Mr. Chairman, several weeks ago your Committee heard the testimony of Suzanne Boutrous about the death of her son, Jesse Colson, who died in a car accident in June, 1989 while returning to a store after delivering a pizza ordered from a Domino's Pizza franchisee.

The death of Jesse Colson had a profound effect on Domino's. I think it's important that you know how Domino's Pizza reacted to this tragic event, how sorry we are about it, and why we are so determined not to have repetitions of it.

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Prior to Jesse Colson's death, persons under the age of 18 could be employed to work inside the store only. Within 3 weeks of Jesse Colson's death, Domino's Pizza initiated a policy whereby we would no longer hire anyone under the age of 18 for any job in a pizza store. Since June 1989, we've gone from having over 3,000 mirors employed by Domino's Pizza Inc. to 305 at present, who must work inside the store only. This number is made up of the remainder of the young men and women who worked for us before we instituted this policy, and who we allowed to keep their jobs. So we've gone from having 10% of our workforce comprised of minors to our present level of about 1%. Soon that figure will be zero.

Over the summer of 1989, following the death of Jesse Colson, we made a number of significant changes in the way we do business.

For example, we developed a form by which those minors remaining on our workforce signed a pledge not to drive while on the clock -- a pledge additionally signed by our store managers.

We held a conference on personnel, much of which was spent reviewing and emphasizing our policy on minor employees.

We initiated a system-wide audit system by which we could track whether our stores were in fact employing minors as drivers.

We prepared and delivered a labor law booklet and sent them to our franchisees so they would be reminded of what our policies were.

Domino's Pizza Inc. and representatives of our franchise community adopted a standard to the effect that employment of a person under the age of 18 to operate a motor vehicle is a reason for termination of their franchise agreement.

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Thank you for allowing me to be here today, and I look forward to cooperating with you in any way I can.

Mr. **Lantos**. Mr. Stein for McDonald's Corp.

STATEMENT OF STANLEY R. STEIN, SENIOR VICE PRESIDENT, McDONALD'S CORP.

Mr. **Stein**. I am Stan Stein, senior vice president of personnel and labor relations for McDonald's Corp. As such, I am responsible for all personnel matters in the United States and 52 countries, involving a total of nearly 12,000 restaurants worldwide; 8,300 of those restaurants are here in the United States.

I am pleased to testify before you today on the policies and programs McDonald's has in place relative to the employment of young people. McDonald's is proud of its procedures and the safeguards it has in place which serve to assure that young people employed by our restaurants have a positive work experience that may benefit them in their later career pursuits, and that their employment meets all requirements of Federal and State laws.

We believe our compliance record is unequaled when putting context of the overall size and scope of the McDonald's restaurant system in the United States.

As indicated in my written statement, McDonald's Corp. has an exemplary record with regard to 14 and 15 year olds in its company operated restaurants. During my 16-year career, McDonald's Corp. has received violation notices from the Federal Department of Labor in only two restaurants. The investigation of those situations revealed that the violations occurred prior to McDonald's Corp. operating the restaurants in question.

I am pleased to say that to my knowledge, McDonald's Corp. has never, has never violated the child labor laws in the United States in any restaurant that it has operated.

With regard to our franchisees——

Mr. **Lantos**. Would you repeat that statement?

Mr. **Stein**. Yes, sir. I am pleased to say that to my knowledge, McDonald's Corp. has never been cited for child labor violations in any restaurant it has operated.

With regard to our franchisees, our review of the results of the enforcement activity through May 28 indicates that 20 franchise McDonald's owner-operated——

Mr. **Lantos**. I am sorry to interrupt you, Mr. Stein, but I want to be sure that we get the record straight. I assume that you do not know of an episode that I will now bring to your attention.

Mr. **Stein**. Please do, sir.

Mr. **Lantos**. Because you are under oath, and I want to be certain that you testify accurately.

Mr. **Stein**. Absolutely, and I certainly want to, sir.

Mr. **Lantos**. The Chair has just been advised the State of Wisconsin Department of Labor on June 4 of this year, Monday of this week, cited a corporate-owned McDonald's in Milwaukee for 65 violations. Thirty-two children working beyond curfew, 27 working more than 8-hour days, 4 working more than 40-hour weeks, 2 working without permit and 1 working during school hours.

Are you aware of this?

Mr. **Stein**. Yes, I am. That is not a Federal matter. That is a State matter. But more importantly, those allegations, those allegations, we have a meeting coming up with the State within 2 weeks to review those allegations. Most of those allegations involve a work study program that the State, I believe, was not aware of.

So we are looking forward to the hearing or the meeting, I should say, within 2 weeks to discuss these things.

Mr. **Lantos**. So what you are trying to do is to differentiate between violations of Federal law and violations of State law?

Mr. **Stein**. That is correct.

Mr. **Lantos**. So you admit to large numbers of State violations?

Mr. **Stein**. No, sir, we do not.

Mr. **Lantos**. How many do you admit to?

Mr. **Stein**. I think there have been a few in our history. I cannot give you a precise number. This is the most extreme allegation I have ever heard concerning a McDonald's at the State level.

Mr. **Martinez**. Mr. Chairman.

Mr. **Lantos**. Congressman Martinez.

Mr. **Martinez**. I don't know if it is relevant, but you made a statement that I think is being overlooked here. You said that there was a work study program in place in which these alleged violations took place that were not, that because of the work program, work study program, many of these allegations will not turn out to be allegations?

Mr. **Stein**. That is correct, sir.

Mr. **Martinez**. So, in other words, when they did the investigation, if they did an investigation, they were totally unaware of a work program. Who was conducting the work study program?

Mr. **Stein**. The local school authorities, sir.

Mr. **Martinez**. Under the school authority?

Mr. **Stein**. That is correct.

Mr. **Martinez**. If there were violations and they occurred within that program, there were actually more violations committed by the school than by McDonald's?

Mr. **Stein**. I would hope—I don't believe there are violations. I think because of the authority granted by the work study program, these should not be violations.

Mr. **Martinez**. There are some strict labor laws concerning the number of hours that employees are able to work. If they worked in excess of those hours, whether it was a study program or not, that is a violation.

Mr. **Stein**. I believe the Federal Government authorized in these work study programs for work during the school hours. A lot of the allegations deal with work during school hours which are part of the work study program.

Mr. **Martinez**. Excuse me. As I understood you, Mr. Chairman, one involved one working school hours. That one probably then, if it was, if the permission was given by the school, that probably is not a violation?

Mr. **Stein**. That is correct. There are others dealing with an extensive program there. I can also tell you when the State was apprised of some of our facts in the matter, they immediately said they would have to reduce several of the violations, the alleged violations. They wanted to sit down and discuss the matter further.

This matter is at the investigatory stage right now. We received preliminary notice on the matter, as you indicated, Mr. Chairman,

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we are thoroughly investigating the matter. We have had preliminary conversations with the State. They are satisfied that the number of violations that were alleged are not correct. We are working our way through to see what in fact is correct and what is not correct.

Mr. Martinez. Thank you. Thank you, Mr. Chairman.

Mr. Lantos. We want you to proceed with your testimony. The subcommittee would like you to keep us informed of how this thing unfolds.

You do realize, Mr. Stein, that the State of Wisconsin has one of the finest reputations of any of the 50 States in terms of their Department of Labor and in terms of the State's enforcement of child labor laws. The Chair finds it difficult to understand that all 65 violations may in fact not have occurred.

It is conceivable that some of those will be reduced in number. But I must admit that in view of the fact that we have planned for this hearing for some time and this is a company owned store, it came as a very unpleasant surprise to the chairman that on Monday of this week, the week of the hearing, such a highly regarded Department of Labor as that of Wisconsin should cite a company owned store with such a large number of violations.

We will withhold judgment until the case works itself through, and look forward to your submitting the data to us.

Mr. Stein. Sir, I agree with you, sir. With our exemplary record, though, before the Federal Department of Labor, we, too, are concerned about the allegations at the State level. We will certainly keep you informed.

Mr. Lantos. Thank you very much.

Congressman Martinez.

Mr. Martinez. Since this is a situation that is under investigation and under negotiation, I doubt that we will visit this again. Since—if I might, with your permission?

Mr. Lantos. Yes.

Mr. Martinez. Ask a couple of questions.

Sixty-five sounds like a great number, if it is 65. If it is four people worked five times over the exceeding hours and each one of those is a violations by determination of the Department of Labor, then you really don't have the number that you think you have. It sounds so dramatic. I don't know if we have that information. Was it 65 different individuals?

Mr. Lantos. That is correct.

Mr. Martinez. Do you have any idea, Mr. Stein, how many people are employed at that particular station?

Mr. Stein. Yes, there is. At any one restaurant there would be approximately 60 employees. Clearly there cannot be 65 different individuals. I would find that hard to believe, sir.

Mr. Martinez. In other words, there is probably instances where there is maybe a different kind of a violation, more than one for each employee?

Mr. Stein. It may be. As you said, Mr. Martinez, this matter is in the process of investigation. I have not gotten into all the details yet.

Mr. Martinez. I understand that. We have brought it up here. So that there isn't—so that somebody doesn't develop a misconcept of what is really—I don't want to start painting a black brush on anybody before we know the facts.

Mr. STEIN. Especially in light, sir, of our record up until this point in time, which has absolutely been exemplary.

Mr. MARTINEZ. I want to make sure that even as we look at it here in this brief moment, that we are looking at it in a real perspective. You have 60 employees. There are 65 violations. There has to be a determination of several violations by one or more individuals. I doubt that all—of the 60 employees, how many are adults?

Mr. STEIN. I can't give you specific numbers as to that restaurant. In general, more than half would generally be adults.

Mr. MARTINEZ. There again it would be only 30 individuals at the most involved in the child labor laws which govern them, so that there couldn't be more than 30 individuals involved?

Mr. STEIN. That is correct.

Mr. MARTINEZ. Thirty-two. They say 32. So that then again, if there are 65 counts, you know that is more than one count per individual. So that many of these, like you say, may have been because of this particular program that you are talking about?

Mr. STEIN. That is correct.

Mr. LANTOS. I want to thank my colleague for his very helpful explanation.

According to the information the Chair has, there were 32 individual employees under the age of 18 who worked beyond curfew, among other violations.

Please proceed.

Mr. STEIN. Thank you, sir.

With regard to our franchisees, a review of the results of the recent enforcement activity through May 28 indicates that 20 franchise McDonald's owner-operators, out of 2,162, were cited for violations. That is less than 1 percent of our total licensees with less than 1 percent of our restaurants.

Mr. LANTOS. Mr. Stein, I hate to keep interrupting you, but your testimony is so stimulating that I have to.

How many of your licensees were cited?

Mr. STEIN. There were approximately 20 franchised McDonald's owner-operators.

Mr. LANTOS. Out of?

Mr. STEIN. 2,162.

Mr. LANTOS. You say that is less than 1 percent. That surely mathematically is less than 1 percent. My question is a different one. Were all 2,162 inspected?

Mr. STEIN. To my knowledge, no, sir.

Mr. LANTOS. How many were inspected?

Mr. STEIN. To my knowledge, hundreds of them have been inspected.

Mr. LANTOS. The 1 percent figure then is an irrelevant figure, is it not?

Mr. STEIN. I can just state the facts, sir.

Mr. LANTOS. No, those are not the facts. The facts may be that of the ones inspected, maybe 10 percent were cited for violations. You made a statement, sir, which I find misleading. I am attempting to clarify what I consider to be a misleading statement.

Let me repeat.

Why don't you please read your prepared statement with respect to this item?

Mr. **Stein**. OK. I go on from there, sir. I have completed it with regard to that item.

Mr. **Lantos**. Then let me read it for you. What page is this statement on that you just made? Page 2. All right. Let me read it to you.

> With regard to our franchisees, our review of the results of the enforcement activity through May 28 indicates that 20 franchised McDonald's owner-operators were cited for violations. That is less than 1 percent of our total licensees with less than 1 percent of our restaurants.

That is your prepared written statement submitted for the record; is that correct?

Mr. **Stein**. And there is one additional statement——

Mr. **Lantos**. No, I am just dealing with this paragraph now.

Mr. **Stein**. Yes.

Mr. **Lantos**. I am suggesting that this paragraph is misleading. This paragraph juxtaposes 20 violations with over 2,000 restaurants. And you draw the conclusion that is 1 percent. I am suggesting that that is misleading. It would be accurate if every single one of those 2,000 would have been examined and 20 would have been found in violation. Your testimony is you don't know how many were inspected.

Mr. **Stein**. I know that several hundred have been, sir.

Mr. **Lantos**. 500 or less?

Mr. **Stein**. I would say less than 500.

Mr. **Lantos**. 200? Don't you have a record? Don't they report to you when they are inspected?

Mr. **Stein**. They do let us know. I don't have that immediately in front of me. I can provide that to you at a later time if you would like to have it.

Mr. **Lantos**. You think it is less than 500?

Mr. **Stein**. I believe that.

Mr. **Lantos**. Do you believe it is less than 400?

Mr. **Stein**. Yes, sir, I do.

Mr. **Lantos**. Do you believe it is less than 300?

Mr. **Stein**. I am not sure. I think it is somewhere between 200 and 300.

Mr. **Lantos**. If it is somewhere between 200 and 300, instead of 1 percent, it may be as high as 10 percent. Isn't that true? You know, this is elementary. I mean, we are not debating it. If 200 were inspected and 20 were found in violation, then 10 percent were found in violation. Would you agree with that?

Mr. **Stein**. Of those that were inspected, yes, sir.

Mr. **Lantos**. Well, the ones that are cited are only ones that are inspected. The ones that are not inspected cannot be cited.

Mr. **Stein**. That is correct.

Mr. **Lantos**. So let's not play games.

Mr. **Stein**. I am not trying to play games sir.

Mr. **Lantos**. I am just trying to clarify what I consider misleading testimony. Allow me to do that. Then I will call on my colleagues to comment in whatever way they choose.

If there were 200 inspected and 20 were found in violation, then 10 percent were found in violation. Isn't that true.

Mr. **Stein**. Yes, sir.

Mr. **Lantos**. If 300 were inspected and 20 were found in violation, then that is somewhere in the neighborhood of 7 percent; isn't that correct?

Mr. **Stein**. I believe the math works out, yes.

Mr. **Lantos**. I think the math works out. The figure is somewhere between 7 and 10 percent, not 1 percent, would you agree with that?

Mr. **Stein**. Of the ones that were inspected, yes, sir.

Mr. **Lantos**. Let me go back again, because I am ready to play this until the cows come home.

Can your franchisees be cited without an inspection?

Mr. **Stein**. No, sir, they cannot.

Mr. **Lantos**. Therefore, for purposes of this dialog, we have to set aside the ones who were not inspected. Is that correct, sir?

Mr. **Stein**. That is true, sir.

Mr. **Lantos**. OK. Your statement is under oath that to the best of your recollection, and you will give me the accurate figure, between 200 and 300 were inspected?

Mr. **Stein**. Yes, sir.

Mr. **Lantos**. Therefore, only those 200 and 300 potentially could be cited? Are we in agreement?

Mr. **Stein**. That is correct, sir.

Mr. **Lantos**. Accepting your figure of 200 to 300, the violation therefore is not 1 percent, but it is from 7 to 10 percent? Do you agree with that?

Mr. **Stein**. That is correct, sir.

Mr. **Lantos**. Congressman Martinez.

Mr. **Martinez**. Thank you, Mr. Chairman.

Never wishing to disagree with the chairman of our committee, just trying to understand where we are at and why we are there, first of all, let me ask one question. The enforcement activity is conducted by whom?

Mr. **Stein**. The Federal Department of Labor.

Mr. **Martinez**. All right, Federal Department of Labor. I don't think we have a labor force to run out and investigate every—we investigate those that we can, I guess, on complaint or on a random sampling, to see what is happening. If it is on a random sampling to see what is happening, to make sure people are in compliance, then I can understand they would only do a certain number. As a result, you only have a certain number to evaluate any statement or statistic you make.

In that regard, then, when you say—and I am trying to read your statistics to see why the chairman feels that it is misleading or indicating a false premise here. When you say that, it indicates that in those inspections that were held, 20 franchised McDonald's owners were cited for violations. It doesn't say how many violations they were cited each one of them. It just says 20 franchises.

There is another avenue of argument if you want to try to determine approximately how many violations were. That is one sense complete. It indicates 20 franchise McDonald's owned were cited for violations. Then it says less than 1 percent of our total licensees with less than 1 percent of them.

Let me understand what you are saying in that second sentence is actually a fact?

Mr. STEIN. That is correct.

Mr. MARTINEZ. Without wanting to relate that to only the percentage that was—you are just simply stating that that is 1 percent of the total picture. You didn't say that all were investigated and all were—you know, I am trying to do this for my clarification to understand what you are saying.

Mr. STEIN. That is absolutely correct, Mr. Martinez.

Mr. MARTINEZ. Then you say the majority of these violations were primarily hour related. I understand it very clearly in my mind that you are not trying to indicate there is only 1 percent of all, only 1 percent violations in all of your stores. You are simply stating that 1 percent of the total?

Mr. STEIN. That is correct, sir.

Mr. MARTINEZ. I wish we would have the ability to investigate every one. Then we could actually know for certain how many violations there were. Since we don't we can only extrapolate this out from those that were and come up with the conclusion the chairman has. If you had investigated all of them and extrapolate this percentage out, you would reach that percentage that he has suggested. Would that be fair?

Mr. STEIN. Sir, I don't know if it would be fair or not. You really have to ask the Department of Labor on what basis they investigated these particular restaurants versus some others. It may have been because of some complaints or some other criteria that I am not privy to.

Mr. MARTINEZ. I am told that it was just random. You do a random sampling. You take a poll. Then you extrapolate that out as a percentage for everything as to what election outcome will be or whatever anything else might be by that poll, or what opinion of the people is. Then I take it that your statement is absolutely accurate if it was done randomly, and that is a sampling?

Mr. STEIN. That is correct, sir.

McDonald's believes that we have a special commitment to the young crew members employed in our restaurants. Furthermore, our experiences indicate that our future management will come from these ranks, as did the present management. Ed Rensi, president of McDonald's USA, began his McDonald's career as a crew members in Ohio; while Michael Quinlan, McDonald's chief executive officer, started at McDonald's as a part-time mail room clerk.

Almost 40 percent of McDonald's corporate officers began as hourly restaurant employees. Up through the ranks success stories similar to these abound at every level throughout our company and within franchisee organizations and they do not stop at the top.

Our policy of hiring and promoting from within helps to ensure that those moving up through the ranks at McDonald's will have learned strict operating procedures that have helped McDonald's succeed. Young people with desire, dedication, and ability can move up in our organization, regardless of their educational, ethnic, or societal background.

Work at McDonald's provides many noneconomic benefits as well. The only major study conducted on the subject of fast food employment was done in 1984 by the National Institute for Work and Learning, which interviewed 4,660 teenage employees from seven restaurant chains, including McDonald's. I have asked the institute, which is chaired by the distinguished former Secretary of Labor, William Wirtz, to provide the subcommittee with a copy of this study.

A look at the results of this study indicates that the majority of employees derived significant employability and personal skills, and were highly satisfied with their work experience. Occasional references to "hamburger flipping" jobs are not based on the reality of the learning and growth experience that employment at McDonald's provides to young people.

In an article in "Policy Review," author Ben Wildavsky states, "Far from sticking its workers in an inescapable rut, McDonald's functions as a de facto job training program by teaching the basics of how to work." Called "McJobs," this article is subtitled "McDonald's—Inside America's Largest Youth Training Program."

McDonald's commitment to education. Much of the debate related to child labor concerns has been expressed in terms of the effects that youth employment has on educational achievement. I want to firmly state that McDonald's believes strongly in the importance of education and has formulated a policy statement entitled "McDonald's Commitment to Education."

This philosophy emphasizes the importance of communication between high schools, students, parents, and the McDonald's system and franchisees. It further emphasizes the need for flexible scheduling and sensitivity to a working student's needs.

We are proud of what we are doing with and for working students today. We have examples. I think you are aware of our program such as McJobs for the handicapped. I would like to point out one program that I think you will find of significance.

In a pilot program in the State of Missouri, we have committed to the National Association of Secondary School Principals to pursue our working student's philosophy. This includes our goals to enhance communication between schools, students, parents, and the McDonald's franchisee. And, it further assures that we will provide sensible and flexible scheduling that ensures a balance between school and work in order to maintain or improve academic performance.

For all high school students employed by McDonald's, we will maintain ongoing programs recognizing academic performance and school attendance. Our Missouri program is now being expanded to other regions of the country.

McDonald's began employment of 14 and 15 year olds on a very limited basis in our company operated restaurants only in the past few years. Prior to our employment of these youths, we first embarked upon a thorough research of all Federal and State laws. We then developed a step-by-step operational plan to provide restaurant management and franchisees with detailed guidelines designed to ensure compliance with these child labor regulations.

Under our present policies, employment of 14 and 15 year olds is recommended on a limited basis and only where we feel confident that a restaurant can manage the requirements of these special workers.

Before recruitment of 14 and 15 year olds begins in any particular geographic area, all pertinent regional and restaurant management personnel are thoroughly trained on the legal limitations of 14 and 15 year old employment, and the unique nature of employing these young workers. On a continuing basis, we analyze laws and regulations dealing with child labor and provide continuing detailed training on this subject.

I want to stress that our employment program creates a "cushion" or buffer by imposing standards which exceed the requirements of existing law. I have submitted a chart showing this buffer. I will give you one short example so we can move on.

The starting time under Federal law is that a 14 or 15 year old cannot start prior to 7 a.m. Under our policy they cannot start prior to 7:30 a.m. We put in a half-hour buffer.

We implement the following additional activities to ensure compliance with the law and a meaningful employment experience for young workers:

Special identification, such as a different colored name tag for 14 and 15 year olds so management can readily recognize who they are.

Separate schedule, time card, and segregated personnel file.

Thorough orientation of all management personnel and accountability for compliance with the law.

Mr. LANTOS. How many 14 and 15 year olds do you employ?

Mr. STEIN. We have approximately 1,700 in our company stores.

Mr. LANTOS. Thank you.

Mr. STEIN. Orientation and training of 14 and 15 year olds regarding "permissible and prohibited tasks" in the work place.

A letter which is correspondence sent to each parent outlining our educational commitment, and employment philosophy.

A detailed description of our step-by-step operational plan and our policy guidelines are attached as attachment C in your materials.

A recent article in the Chicago Tribune quoted an official of Department of Labor's Chicago office as saying: "McDonald's Corp. has a reputation for strictly complying with the child labor law and enforcing child labor standards."

In summary, McDonald's believes that it has developed an appropriate balance between teen employment and family and educational responsibilities. Such a program ensures that teens are able to continue to contribute to their families' economic budget and gain valuable work experience, but not at the expense of academic achievement.

We further believe that our record of compliance with all applicable employment-related laws is outstanding, especially when taken in the context of managing such a large and unique multiemployer restaurant chain. We are proud of our compliance record in company operated restaurants and, overall, that of our franchises.

But, Mr. Chairman, we want to make it better. McDonald's pledges to continue to devote our efforts toward the goal of zero violations in franchised as well as company operated restaurants.

Mr. **Lantos**. Thank you very much, Mr. Stein.

[The prepared statement of Mr. Stein follows:]

TESTIMONY OF

Stanley R. Stein, Senior Vice President, Personnel/Labor Relations
McDonald's Corporation, Oak Brook, Illinois
Before the Subcommittee on Employment and Housing
House Committee on Government Operations

June 8, 1990

Mr. Chairman and members of the Subcommittee, my name is Stan Stein and I am Senior Vice President of Personnel and Labor Relations for McDonald's Corporation. As such, I am responsible for all personnel matters in the United States and 52 countries, involving a total of nearly 12,000 restaurants worldwide. I am also one of 20 officers who serve on a senior management team which determines policies and operational priorities for McDonald's worldwide restaurant system. I am pleased to testify before you today on the policies and programs McDonald's has in place relative to the employment of young people. McDonald's is proud of these procedures and the safeguards which serve to assure that young people employed by our restaurants have a positive work experience that may benefit them in their later career pursuits, and that their employment meets all requirements of federal and state laws.

To begin, I would like to briefly describe the McDonald's quick service restaurant system (company and franchised restaurants). In the United States, McDonald's now has approximately 8300 restaurants employing an average of 60 people, or a total employment of almost 500,000 employees. The majority of these employees, are part-time hourly crew employees.

Approximately one quarter, or 1,726, of McDonald's restaurants are owned and operated by McDonald's Corporation. The remaining 6,600 restaurants are operated by 2,162 individual, independent owner operators under a license agreement with McDonald's Corporation. My testimony will address both the company-operated and franchised restaurants.

Mr Chairman, allow me to begin by stating that we believe that our compliance record is unequaled when put in the context of the overall size and scope of the McDonald's restaurant system in the United States. Our review of the reports of recent enforcement sweeps indicates that very few of our 1,726 company-operated restaurants received any violation notices.

With regard to our franchisees, our review of the results of the enforcement activity through May 28, indicates that 20 franchised McDonald's owner operators were cited for violations. That's less than 1% of our total licensees with less than 1% of our restaurants. The majority of these violations were primarily hour related.

McDonald's Workforce

McDonald's Corporation employs approximately 100,000 people--4,200 corporate staff, 7,000 salaried restaurant managers and assistants, and approximately 85,000 hourly crew employees. Of these crew employees, approximately 1,700 are 14 or 15 years old. While our franchisees manage their own personnel practices and keep their own records, we estimate that they employ approximately 400,000 employees, about 350,000 of whom are paid on an hourly basis.

At McDonald's we manage the personnel function in two basic ways--by directing our company-operated restaurants to adhere to policies that we establish, and by providing McDonald's franchisees with information, training, programs and consultation to help them manage their personnel practices effectively. To accomplish these goals we employ approximately 200 personnel people who are located in our Home Office and in our 38 regional offices. They devote their full time to the personnel function.

McDonald's believes that we have a special commitment to the young crew members employed in our restaurants. Futhermore, our experiences indicate that our future management will come from these ranks, as did the present management. Ed Rensi, President of McDonald's USA, began his McDonald's career as a crew member in Ohio; while Michael Quinlan, McDonald's Chief Executive Officer, started at McDonald's as a part-time mail room clerk. Almost 40 percent of McDonald's corporate officers began as hourly restaurant employees. Up-through-the-ranks success stories similar to these abound at every level throughout our company and within franchisee organizations and they do not stop at the top. Our policy of hiring and promoting from within helps to ensure that those moving up through the ranks at McDonald's will have learned strict operating procedures that have helped McDonald's succeed. Young people with desire, dedication and ability can move up in our organization, regardless of their educational, ethnic or societal background.

To help put the teenage component of our workforce in perspective, most young employees who work at McDonald's today are doing so because they need the income. Teenagers work to support themselves through schooling, or, for older youths, to gain a foothold in the labor market so they can move on to permanent employment, with McDonald's or elsewhere. Their work efforts are usually fully supported by their parents. The typical young worker at McDonald's today is not usually an upper middle class youngster looking to buy a second stereo, but is from a family which needs to augment its income with the earnings from part-time work.

Whether an employee chooses a career with McDonald's, or to work elsewhere, work at McDonald's provides many non-economic benefits, as well. The only major study conducted on the subject of fast food employment was done in 1984 by the National Institute for Work and Learning, which interviewed 4,660 teenage employees from seven restaurant chains, including McDonald's. I have asked the Institute, which is chaired by the distinguished former Secretary of Labor, William Wirtz, to provide the subcommittee with a copy of this study.

A look at the results of this study indicates that the majority of employees derived significant employability and personal skills, and were highly satisfied with their work experience. Occasional references to "hamburger flipping" jobs are not based on the reality of the learning and growth experience that employment at McDonald's provides to young people.

In an article in "Policy Review", author Ben Wildavsky states, "Far from sticking its workers in an inescapable rut, McDonald's functions as a defacto job training program by teaching the basics of how to work." Called "McJobs", this article is subtitled "McDonald's - Inside America's Largest Youth Training Program." A copy of this article is attached (Attachment A).

McDonald's Commitment to Education

Much of the debate related to child labor concerns has been expressed in terms of the effects that youth employment has on educational achievement. I want to firmly state that McDonald's believes strongly in the importance of education and has formulated a policy statement entitled "McDonald's Commitment to Education." This philosophy emphasizes the importance of communication between high schools, students, parents and the McDonald's system and franchisees. It further emphasizes the need for flexible scheduling and sensitivity to a working student's needs. I have attached this statement to my testimony (Attachment B). In addition, we have developed a video "Work and the American Student", which further outlines our commitment to education and our goal of communicating with educators to develop strong working relationships on work/education issues. I would be pleased to provide a copy of this videotape to the subcommittee.

We're proud of what we're doing with and for working students today. In a pilot program in the state of Missouri, we have committed to the National Association of Secondary School Principals to pursue our working student's philosophy. This includes our goals to enhance communication between schools, students, parents and the McDonald's franchisee. And, it further assures that we will provide sensible and flexible scheduling that ensures a balance between school and work in order to maintain or improve academic performance. For all high school students employed by McDonald's, we will maintain ongoing programs recognizing academic performance and school attendance. Our Missouri program is now being expanded to other regions of the country.

McDonald's Policies and Procedures for 14 and 15 year old Employment

McDonald's began employment of 14 and 15 year olds on a very limited basis in our company operated restaurants only in the past few years. Prior to our employment of these youths, we first embarked upon a thorough research of all federal and state laws. We then developed a step-by-step operational plan to provide restaurant management and franchisees with detailed guidelines designed to ensure compliance with these child labor regulations. Under our present policies, employment of 14 and 15 year olds is recommended on a limited basis and only where we feel confident that a restaurant can manage the requirements of these special workers.

Before recruitment of 14 and 15 year olds begins in any particular geographic region, all pertinent regional and restaurant management personnel are thoroughly trained on the legal limitations of 14 and 15 year old employment, and the unique nature of employing these young workers. On a continuing basis, we analyze laws and regulations dealing with child labor and provide detailed training on this subject.

I want to stress that our employment program creates a "cushion" or buffer by imposing standards which exceed the requirements of existing law. The following chart clearly demonstrates this point;

Federal Law	McDonald's Policy on 14 and 15 Year Olds
Start time - 7:00a.m.	Start time - 7:30 a.m.
End Time - 7:00 p.m.	End time - 6:45 p.m.
Hours per week - 18	Hours per week - 16
Hours per school day - 3	Hours per school day - 2.5
Weekend work per day - 8	Weekend work per day - 7.5

We also implement the following additional activities to ensure compliance with the law and a meaningful employment experience for young workers:

•Special identification, such as a different colored name tag for 14 and 15 year olds so management can readily recognize who they are.

•Separate schedule, time card and segregated personnel file.

•Thorough orientation of all management personnel and accountability for compliance with the law.

•Thorough orientation and training of 14 and 15 year olds regarding "permissible and prohibited tasks" in the work place.

•A letter which is correspondence sent to each parent outlining our educational commitment, and employment philosphy.

A detailed description of our step-by-step operational plan and our policy guidelines are attached (Attachment C)

In addition to taking the above actions in company-operated restaurants, these materials and policies are distributed to our franchisees, who are urged to adopt them, and are backed up with field support. I would note, however, that McDonald's franchisees are free to establish their own labor practices, within the structure of the law, just as they are free to manage other aspects of their business. We believe these efforts have worked.

A recent article in The Chicago Tribune quoted an official of Department Of Labor's Chicago office as saying: "McDonald's Corporation has a reputation for strictly complying with the child labor law and enforcing child labor standards."

CONCLUSION

In summary, McDonald's believes that it has developed an appropriate balance between teen employment and family and educational responsibilities. Such a program ensures that teens are able to continue to contribute to their families' economic budget and gain valuable work experience, but not at the expense of academic achievement.

We further believe that our record of compliance with all applicable employment-related laws is outstanding, especially when taken in the context of managing such a large and unique multi-owner restaurant chain. We're proud of our compliance record in company operated restaurants and, overall, that of our franchised restaurants. But, Mr. Chairman, we want to make it better. McDonald's pledges to continue to devote our efforts toward the goal of zero violations in franchised as well as company operated restaurants.

Mr. LANTOS. We will now hear from Mr. David Deal, senior executive vice president, Little Caesar Enterprises, Inc.

STATEMENT OF DAVID DEAL, SENIOR EXECUTIVE VICE PRESIDENT, LITTLE CAESAR ENTERPRISES, INC.

Mr. DEAL. Thank you. I am David Deal, senior executive vice president of Little Caesar Enterprises, Inc. in Detroit, and one of three members of our executive committee responsible for the day-to-day management of our company. I am pleased to have the opportunity to testify here today.

We believe that our commitment to the communities that we serve and to the youth who are an integral part of these communities has been a cornerstone of our success. We also believe that the training, experience, and wages that we provide our young employees is invaluable to them as they grow to meet the challenges of adult responsibilities and of the competitive marketplace.

We have an extensive training program for all of our employees and franchisees. Specific instruction on child labor law issues is conducted during special training which is required of all new franchisees and store management personnel. These programs are subsequently reinforced several times a year.

We are now searching our entire system to supplement the information we recently received from the Department of Labor. We are reaffirming our corporate position of 100 percent compliance with the law. We are again offering to assist our franchisees in making sure that they are also complying.

All violations cited during the sweep that was conducted recently by the Department of Labor pertaining to Little Caesars were in our franchise restaurants. The overwhelming preponderance of these were with respect to youths under the age of 16. We have a corporate policy forbidding the employment of any person under the age of 16 in our corporate-owned restaurants. We strongly recommend the same policy to our franchisees.

To further our goal of 100 percent compliance throughout all of our company and franchise restaurants, we are pleased to be able to tell this subcommittee that we have implemented or are in the process of implementing the following changes in our system.

First of all, we are conducting a telephone survey of all of our franchisees to determine the nature and extent of child labor violations within the past year. Franchisees who have been cited for violations and franchisees with employment practices that may lead to violations will be counseled on the steps necessary to correct their problems. All franchisees have been advised in writing that any offenders will jeopardize their franchise rights——

Mr. LANTOS. What does it mean, jeopardize?

Mr. DEAL. That means that they are putting their franchise rights out there in jeopardy. They could lose their restaurants.

Mr. LANTOS. Have you revoked a franchise for labor law violations?

Mr. DEAL. No, we have not. However, I think it is fair to say that we are just becoming aware of the magnitude of the problem that exists in our franchise community. That is why we are adopting the procedures I am in the process of outlining.

Mr. Lantos. Please proceed.

Mr. Martinez. Mr. Chairman.

Mr. Lantos. Mr. Martinez.

Mr. Martinez. On that, I believe McDonald's has in the contract a violation of labor law is grounds for losing the franchise.

Mr. Stein. Yes, sir. A violation of any law is a—is subject to the person——

Mr. Martinez. Losing the franchise.

Do you have such?

Mr. Deal. Yes, we do.

Mr. Martinez. If there is a violation, it is up to your policy being strong enough to, let's say, if somebody has violated, and if it proves out that some of the citations, they were violations, do you intend to move on that aspect of the contract and cause these people to lose their franchises?

Mr. Deal. I think we are going to have to look at the specific circumstances. Clearly, if there was a violation cited because an employees worked until 5 minutes after 7, that would be one extreme. If we had a situation that involved a serious injury, obviously then I think we would have to take that drastic step.

Mr. Martinez. Let's say a serious injury or a great number of violations. A great number of violations is pattern and practice?

Mr. Deal. Absolutely.

Mr. Martinez. Thank you.

Thank you, Mr. Chairman.

Mr. Deal. Second, all franchisees have been notified that we now require them to immediately advise us in writing whenever they are cited for any child labor violations. At the same time they must advise us of what corrective action they intend to take.

No. 3, our franchise operations personnel audits, which they do several times a year in every store in our system, have been expanded to include a complete child labor law review during each of these visits.

No. 4, on an annual basis we will review all franchise manager training materials to insure that appropriate child labor law information is kept current.

No. 5, for our company owned restaurants, a communication will be sent to all of our market directors reminding them of the need to fully comply with the law and stating that offenders risk termination.

No. 6, by the end of this month, June 1990, we will require that posters advising all employees that minors cannot work certain hours and they cannot operate hazardous equipment be prominently displayed in all of our franchise and corporate owned restaurants. We are also continually working with our suppliers to reengineer our equipment to make it even safer.

You have asked us to discuss our experience with the enforcement of child labor laws by Federal and State agencies in recent years. Generally, our experience has been quite good. We have usually found personnel to be helpful, cooperative and reasonable.

However, we do believe that there is a need for better communication with regard to restaurant equipment classifications and new regulations as well as on updates and amendments to current laws.

We look forward to working more closely with the Department of Labor and with this committee, if it deems necessary, to continue to improve our performance.

Thank you.

[The prepared statement of Mr. Deal follows:]

Little Caesars

June 4, 1990

Tom Lantos, Chairman
Congress of the United States
House of Representatives
Employment and Housing Subcommittee
of the Committee on Government Operations
Rayburn House Office Building
Room B-349-A
Washington, DC 20515

Dear Congressman Lantos:

Enclosed are 40 copies of Little Caesar Enterprises, Inc. written testimony per your request of May 10, 1990.

Respectfully submitted by:

Little Caesar Enterprises, Inc.

Little Caesar Enterprises, Inc.

Fox Office Centre
2211 Woodward Avenue
Detroit, Michigan 48201-3400

(313) 983-6000
FAX (313) 983-6494

Little Caesars

In its more than 31 years as a family business, this is the first time that Little Caesars Pizza has been invited to speak before a Congressional Committee. We are pleased to be able to offer our testimony to the Employment and Housing Subcommittee.

Little Caesars Pizza, the world's largest carry-out pizza chain with nearly 3,000 restaurants, is proud of its reputation as a business with high ethical standards and a strong commitment to the communities we serve. The company was started by Michael and Marian Ilitch in 1959 with one restaurant, and today remains a family-owned and operated international business with about 75 percent of its restaurants owned and operated by franchisees. This is a family business in the true sense of the word. The company was started by a husband and wife team who were later joined by their seven adult children. Also, our independent franchise owners who are primarily comprised of husband and wife teams, usually have their children joining them as well.

Little Caesar Enterprises, Inc

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FAX (313) 983-6494

Throughout our history, Little Caesars corporate policy, for company and franchise restaurants alike, has always been that each restaurant must be operated in full compliance with both the letter and the spirit of all applicable laws and regulations. In fact, Little Caesars corporate policy goes even further in providing a proper working environment for young people. We believe that it is our responsibility to provide opportunities for young people, ultimately leading to a better quality of life for them. We offer many incentives for both further education and promotions with the company, including college tuition reimbursement, and a clearly defined career path. Nearly 50 percent of the company's vice presidents began their careers with Little Caesars when they were teen-agers, and more than 1/4 of our employees are college graduates.

Today, Little Caesars and its franchisees employ approximately 55,000 people, with 13,000 under the age of 18, with the vast majority being 16 and 17 year olds. As a major employer of young people, we know that they are an important part of the work force and we believe that a job with us provides them with valuable work experience. For many young people, Little Caesars is their first job.

We believe strongly that young people in the work force must not be taken advantage of and that we have a responsibility not only to comply with the labor laws, but to provide our employees with a safe work environment.

Little Caesars corporate policies are taught to company and franchise personnel from the very first day of their association with the company. The message of compliance with all laws and of our responsibility to young people is continually and consistently communicated to all of our franchisees and company personnel throughout our chain.

Before opening or managing a restaurant, Little Caesars requires an extensive training program for its employees and franchisees, and we teach the Child Labor Laws as part of our Management Development Program for all franchisees and managers of company-owned restaurants. In addition, specific training on child labor issues is conducted during our Franchise Business Training Program, which is required of all new franchisees. **(See Appendix Documents 1 and 2).**

Strong emphasis is placed on the Fair Labor Standards Act, as well as individual State Laws. It is Little Caesars company policy not to employ anyone under the age of 16, and this practice is recommended to our franchisees as well. **(See Appendix Documents 1 and 2).**

In addition to teaching the regulated hours of work for minors, we also stress that no one under 18 can come in contact with hazardous equipment. Also, minors are instructed not to use or operate certain equipment within our restaurants, such as our vertical cutting mixer (which is clearly labeled with a warning sticker). Employees under the age of 18 also are instructed not to operate our dough roller, even though we have two "no action letters" from the U.S. Department of Labor on our Anets model.

Information about these issues, as well as minimum wage, overtime, equal pay, postings and record keeping, are delivered continually and consistently to both our franchise and company personnel. All individuals are tested on what they have been taught, including specific questions on child labor laws.

Further, each person trained receives a detailed information packet to be taken with them for future reference. Before a restaurant is opened, the people who will be responsible for that location have been given information both verbally, and in writing. Franchisees receive the Franchise Offering Circular, Franchise Agreement, Employee Handbook, Certification and Training Classes, and the Operation Manual.

Company personnel receive the employee handbook (which must be signed as an acknowledgment of receipt by every company employee), certification and training classes, and special seminars.

To monitor compliance for all laws, the Little Caesars company area directors oversee restaurant management to personally audit time cards, review paperwork and visit the restaurants.

The Payroll Department represents the third check that all laws are properly adhered to, and that paperwork is done correctly. Evaluations of corporate personnel job performances includes comments regarding their compliance to state and federal laws as well.

On a continuing basis, franchisees and company personnel are brought up to date and reminded about government regulations on labor issues through special seminars conducted by both corporate personnel and outside experts, via memoranda and other mailings, and through operational reviews and audits conducted by corporate personnel.

Further, if noncompliance is discovered, Little Caesars has specific policies for dealing with noncompliance. Within the Little Caesars Pizza chain, compliance with all state and federal laws is corporate policy, and any deviation is unacceptable.

Any infractions of the laws are taken very seriously and are dealt with accordingly. In the case of franchisees, when and if we discover any infraction, we remind the franchisee of our corporate policy of adherence to all laws, and offer to assist them in bringing their restaurants into compliance. Further, noncompliance becomes a part of their record and enters into the determination as to whether or not Little Caesars furthers and/or continues the relationship with that particular franchisee.

On the corporate side, when we discover any person under 16 has been mistakenly hired, that person's employment is terminated immediately. We have created this policy because of questions concerning minors under the age of 16 operating certain equipment in our restaurants, and due to their restricted working hours.

Any company management person found to be in noncompliance with labor laws is issued a written warning with regard to their employment with Little Caesars, and, if violations continue, is subject to termination.

As you can see, there is no question that Little Caesars policies and procedures are both consistent and strict with regard to compliance with state and federal laws.

The recently cited violations indicate to us that we need to further strengthen our procedures for complying with the law. We are now in the process of adding policies to attain that goal within the Little Caesars family.

Some of the steps that we have recently taken are: requiring all franchisees to notify us of any citation received concerning the violation of labor laws, placing stronger emphasis on labor laws during operational reviews by company personnel, increasing the frequency of communications regarding the compliance with labor laws to both franchise and company personnel, providing all appropriate franchise and company personnel with a labor law audit form which can be used to conduct their own internal investigation, and re-emphasizing strict compliance with all state and federal laws.

Little Caesars has and will continue to strive for 100 percent compliance with all laws. We appreciate any suggestions that the committee may have that will help us attain our goal. We believe that better communication between government and business is an important part of that goal.

Throughout the U.S., Little Caesars strives to be a responsible member of the community and has been involved in international food programs, amateur sports, re-development of urban areas, restoration of national landmarks, and other community activities for more than 30 years. In addition, Little Caesars participates in many government and private programs that provide job placement and training for young people and adults in need.

One of our internationally known projects is the Little Caesars Love Kitchen program in which two mobile pizza restaurants travel throughout North America feeding the homeless and the hungry. To date, more than 610,000 hungry people have been fed Little Caesars pizza in the U.S. and Canada. The pizza is provided at no cost to soup kitchens.

Little Caesars recently renovated the historic 5,000 seat Fox Theatre in downtown Detroit, bringing new life into the city's neglected Theatre District. The company moved it's world headquarters into an attached 10-story office building that same year.

Civic organizations and amateur sports have been supported by Little Caesars for over 30 years as well. Currently, there are more than 69,000 youths across the United States who participate in Little Caesars-sponsored amateur sports.

Little Caesars also works on behalf of a variety of non-profit organizations including the NAACP, National Easter Seals, Boys and Girls Clubs of America, and various substance abuse and education programs.

As one of our founding philosophies states, Little Caesars believes in giving back to the community. We are proud of our reputation as a business leader, and look forward to maintaining and improving our position as a socially responsible corporation.

APPENDIX

Document 1
"Little Caesars and You"
Employee Orientation and Training Handbook

"It is the policy of Little Caesars to seek and employ the best qualified personnel in all positions and to provide equal opportunity for advancement to all employees. We will not discriminate against any person because of race, color, height, weights, religion, age, sex, handicap or Vietnam status, regarding hiring, training, or on-the-job treatment." (page 2)

"The company complies with all state laws on break procedures. In those states where there is no state law, the following will be applicable: The manager will put a minor employee on a half an hour break after five hours of work. It must be an uninterrupted half an hour break or meal period, which will be unpaid." (page 4)

"Do not use equipment unless you are of proper age and have been trained on its proper use. No one under 18 is allowed to operate or clean any part of the vertical cutting machine or the dough sheeter machine." (Safety Guidelines, page 7)

"1. Due to the type of equipment used in our restaurants, no employee will be hired under the age of sixteen (16)." (General Store Rules, page 8)

Document 2
"Little Caesars Business Training Manual"

Employment of minors during prohibited hours

"It is critical to carefully and regularly review each stores scheduling practices to avoid mis-scheduling minors. This can slip through the cracks as managers work to keep their store fully staffed.

Every employee under the age of 18 must provide legal proof of age. In many states, special work permits and deviation of hours forms are required. Do not violate the stipulations of these permits under any circumstances.

Child labor laws also regulate what your employees can and cannot do on the job. Check your state department of labor office. Failure to have proper documentation or failure to control the hours of work and tasks performed, create serious risks such as citations for violations and fines.

We recommend that no one under 16 years of age be hired to work in the stores."

APPENDIX (cont.)

Document 2 (cont.)

Unlawful use of "hazardous" equipment

"It is unlawful for anyone under the age of 18 to operate, disassemble or clean dough mixers or sheeters (certain models), or any of their parts, because of Federal Hazardous Work Orders.

Warning signs, available from Blue Line, must be clearly visible on such pieces of equipment at all times. Managers must never allow minors to operate, disassemble, clean or reassemble this equipment under any circumstances."

Mr. **Lantos**. Thank you very much, Mr. Deal.

Let me begin by asking a question of all members of the panel. We clearly understand that you have a direct management involvement in your company owned stores and a relationship with your franchisees. Is that correct for all four of you gentlemen, basically?

It is a very different relationship. In your company owned stores, you do all the hiring, you manage the place. With franchisees you set certain criteria, provide certain services, products, advertising, but it is the franchisee who makes the decisions on site. Is that correct?

Mr. **Stein**. That is basically correct for us. We do not supply any products to our licenses. That is basically correct.

Mr. **Lantos**. That basically is correct.

Under your present company policy, what violations of child labor laws would result in termination of a franchise?

Mr. Deal, we begin with you.

Mr. **Deal**. I would say that if we had a situation where there was evidence that a franchisee had exhibited a disregard for the law, that there was intent there, that clearly he had a disregard for the law, that it wasn't a situation of carelessness with respect to hours, or if we had a pervasive pattern where he had employees that were operating equipment in the store which would be conducive to injury.

Mr. **Lantos**. Is this, as I understand it, a judgmental issue with you folks? There is nothing in the contract that automatically results in the revocation of the license?

Mr. **Deal**. We hold the cards in the sense that——

Mr. **Lantos**. I understand you hold the cards. My question is, is that all or is there a contractual relationship?

Mr. **Deal**. There is a contractual relationship in the sense that a franchisee is obligated to obey all laws. Failure to do that is a default in the franchise agreement.

Mr. **Lantos**. Automatic?

Mr. **Deal**. Well, I think we would as a matter of policy advise the franchisee of that default and give them an opportunity to cure that default.

Mr. **Lantos**. OK. Now, how long have you been operating?

Mr. **Deal**. For 31 years.

Mr. **Lantos**. Have you ever discontinued a franchise because of a child labor law violation, a pattern of child labor law violations?

Mr. **Deal**. We have not terminated a franchisee for any reason, whether it is a legal violation or a noncompliance with specifications, et cetera, in our history. I think in part——

Mr. **Lantos**. No franchise has been revoked for any reason in the 31 years——

Mr. **Deal**. Not to the best of my knowledge. That is correct.

Mr. **Lantos**. Then the Damocles sword looks like a toothpick? If I am one of your franchisees—how many franchises do you run?

Mr. **Deal**. We would have approximately 2,000 franchise units.

Mr. **Lantos**. You have had them, some of them longer, some of them for shorter periods, but you have been in business for 31 years and not a single franchise has ever been revoked for any reason?

Mr. Deal. The approach that we have taken historically has been to counsel the franchisee on the problem and to work with them to a solution. I think it is fair to say that our chain has grown very, very rapidly. We had as recently as 11 years ago less than 200 stores. Now we have almost 3,000. With that has come an increasing recognition that that type of a strategy no longer is effective. We don't know our franchisees as well as we used to because of the size of the system, and we have to begin to take a more black and white posture with that.

Mr. Lantos. Mr. Stein, what is your relationship to franchisees with respect to child labor law violations?

Mr. Stein. Our relationship is one of providing them information on what the laws are, that we insist that they comply with all of these laws.

Mr. Lantos. And despite your insistence he does not. What do you do then?

Mr. Stein. OK. As we have done with individuals that were noted here in my testimony, we have sent them a formal notice that we consider the alleged violations to be a serious breach of our license agreement. And if they prove to be true, we will take appropriate action.

Mr. Lantos. How long have you been in business?

Mr. Stein. Thirty-five years, sir.

Mr. Lantos. Have you ever revoked a franchise for child labor law violations?

Mr. Stein. For that sole reason, I cannot say yes. We have revoked franchises because we have concluded that they were not able to properly manage those franchises.

Mr. Lantos. I understand that. Have you revoked the license, whatever you call it, a license——

Mr. Stein. For the sole reason?

Mr. Lantos. For the reason of child labor law violations?

Mr. Stein. We have not, to my knowledge.

Mr. Lantos. How about you, Mr. Black?

Mr. Black. No, we have not.

Mr. Lantos. What is your relationship to your franchisees with respect to child labor law violations?

Mr. Black. We have violations with our franchisees, what we do, the remedy that we have according to the laws of the franchise contract is to put those franchises in default. That is the first step of the termination process that we do have available to us.

At that point the franchisee, according to the State laws they are governed by or the national FTC regulations, have the ability to cure. There is a time period they have to cure the violation. As long as they do that, they return to be franchisees in good standing. It is very difficult for us because of the franchise laws, agreements that are there to terminate the franchise because of a violation.

It would take a series of repeated violations on the franchisee's part in order to terminate that contract.

Mr. Lantos. How long have you been in business?

Mr. Black. We have been in business for 30 years.

Mr. Lantos. Have you ever revoked a franchise for child labor law violations?

Mr. **Black**. No, we have not.

Mr. **Lantos**. Mr. Gibbons, may I ask the same question of you? I realize this is a new management and I am asking a historical question. To the best of your knowledge, has the previous management revoked a franchise for child labor law violation?

Mr. **Gibbons**. To the best of my knowledge, previous management no. And to exact knowledge, current management no.

Mr. **Lantos**. Under your existing policy, how extensive would child labor law violations have to be on the part of the franchisee that would make you revoke a franchise?

Mr. **Gibbons**. A franchise agreement is explicit, as all of them are. If you don't comply with the law of the land, you are breaking the franchise agreement.

Mr. **Lantos**. Obviously all of these franchisees have had to sign these agreements. Obviously some of them have broken the law of the land. Obviously they still all hold the franchises. So, that is not a good enough answer.

Mr. **Gibbons**. Then there becomes a question of when you do, so what? If it is five technical offenses——

Mr. **Lantos**. Nobody is talking about 17 year olds working 5 minutes past the appropriate hour. We are talking about patterns of violations.

Mr. **Gibbons**. Yes. I am attempting now to give you our position. What we have done is try to clarify this gray area with each franchisee. I have written to them explicitly and said if a franchisee knowingly flaunts the law, it is a default that can lead to termination, an action we won't hesitate to take in the appropriate circumstances.

Where significant violations occur, and I think everybody has to be treated individually, but where they do occur, albeit without the knowledge of the franchisee, so ignorance is no defense, all expansion opportunities will be suspended for one year first. If there is a significant repeat in the year, the franchisee is classified unexpandable—period. No more growth, no more stores.

If there is a third repetition in the year, the franchisee is subject to termination. Subject to, as my colleague said, our ability to be able to prove that in the courts of the land. There is some concern that we may not be able to do that.

Mr. **Lantos**. Well, I am not quite sure that I fully follow you. You agree to a contract. You voluntarily agree to a contract; isn't that true?

Mr. **Gibbons**. As a franchisee or franchisor?

Mr. **Lantos**. Both of you. Both parties enter into a contract on a voluntary basis. Presumably you could write into that franchise agreement a very tight provision with respect to child labor law violations, could you not?

Mr. **Gibbons**. But I have 1,700 existing franchise agreements that are signed. I don't know my ability to go——

Mr. **Lantos**. Are they ever renewed?

Mr. **Gibbons**. Every 20 years.

Mr. **Lantos**. So then as they become eligible for renewal, you can write new provisions with respect to child labor law compliance? Isn't that true?

Mr. **Gibbons**. We could change our franchise agreement, yes, sir.

Mr. LANTOS. You have not done so; is that correct?

Mr. GIBBONS. We have not yet done so.

Mr. LANTOS. Well, in view of the fact as you stated, I am quite sure utterly sincerely, that the previous panel moved you, and it would have been difficult to sit through this and not be moved, are you not inclined to change your franchise agreement to make a child labor law violation, for instance, which leads to serious bodily injury or death a reason for the cancellation of the franchise?

Mr. GIBBONS. I think that is exactly what this does that I just read out to you, sir.

Mr. LANTOS. No, it does not. I think it is much more permissive and much more discretionary, Mr. Gibbons. Can you supply the committee with the text of your proposed change in your franchise agreement? What you told me is you wrote them a letter.

Mr. GIBBONS. Yes, I did.

Mr. LANTOS. The letter says?

Mr. GIBBONS. The letter clarified what happens if a violation is recorded in this area. It is a gray area. I have franchisees asking me, say, look, if we have one technical violation, do I lose my business?

Mr. LANTOS. Of course not.

Mr. GIBBONS. I took it upon myself and my corporation to clarify exactly what sanctions we would apply which we felt were within the spirit and the letter of our franchise agreement. It is the highest sanction I have. The highest sanction I have in my corporation is for a guy to lose his career. The highest sanction I have in the franchisee agreement is for the guy to lose his business. This letter clearly says going back to every franchise agreement I have got or not, it clearly says what happens if.

Mr. LANTOS. But you see that is dependent upon the incumbent chief executive officer of the corporation. We like to see things institutionalized. Suppose for whatever reason you leave the company and somebody else takes your place with a less severe commitment to enforcing child labor laws. Would it not make more sense to write into your franchise agreement an automatic self executing provision?

Mr. GIBBONS. We have written into our franchise agreement, very clearly, our view of the collective and individual responsibilities of franchisee and franchisor. It is my understanding of the law of the land that it is the responsibility of the independent retailer to insure that he obeys the law of the land. That is my understanding of the law of the land.

Mr. LANTOS. It is his responsibility to obey the law of the land but you can stimulate him to obey the law of the land by taking away his franchise, can you not?

Mr. GIBBONS. I can respond if he does break the law.

Mr. LANTOS. Your present agreement does not call for that; is that not correct?

Mr. GIBBONS. Yes, it does.

Mr. LANTOS. Your letter lays out your concern. Can you read the appropriate provision of the franchise agreement?

Mr. GIBBONS. He shall conduct business in a lawful manner and comply with applicable laws of the regulations of the State, city, or other political subdivision in which the restaurant is located.

Mr. LANTOS. What happens if he does not? Let's assume he breaks the agreement.

Mr. GIBBONS. We replay the conversation we had five minutes ago.

Mr. LANTOS. The problem is replaying the conversation is not satisfactory because the point this subcommittee is concerned with, Mr. Gibbons, is that we have found, the Department of Labor has found, because we started these hearings, thousands and thousands and thousands of violations. We have had testimony from parents who have lost their children which was a wrenching experience for us to listen to and a nightmare for them to live with.

So just writing a letter saying obeying the law is a good idea and good business and if you don't obey the law we will look at it very unkindly, that does not satisfy what would seem with common sense to be an extremely useful weapon in your hand, namely terminating a franchise. It is your business, not mine.

I am asking each of you and I think I am getting the identical answer, none of you has terminated a franchise for child labor law violations in the entire history of your business and your franchise agreement as of now or proposed does not call for that, even in the case of a child labor law violation that results in the death of a 15-year-old boy or girl. That is what your testimony is, isn't it, because if it isn't, I would love to hear it.

Is there any of your four companies that currently calls for new franchisees to sign an agreement? I understand, for instance, that your chief executive officer is negotiating today with franchisees, that is why he is not here, correct?

Mr. DEAL. Yes, sir.

Mr. LANTOS. So these will be new or renewed franchise agreements, correct?

Mr. DEAL. The point that I think you are getting to is that you don't think we have the clout.

Mr. LANTOS. You have the clout but the record clearly indicates that you have not used the clout. If any of you gentlemen would have said that for an egregious pattern of child labor or law violations you have terminated the following 17 franchisees, we would not be dwelling on this and we would not need to be replaying the conversation.

Mr. Gibbons, what I am asking is a very simple question to which I am getting a very discouraging answer. Not one of you terminated a franchise for a pattern of serious child labor violations. Am I correct in that? Is there an exception to that? No? It is correct.

Mr. STEIN. May I raise something here? I am not aware of McDonald's operators having a pattern and practice that has been confirmed in any way, shape, or form. The example that you are raising for us, we have not had that experience in hand.

Mr. LANTOS. You believe that to be the case?

Mr. STEIN. Correct, sir.

Mr. MARTINEZ. The chairman has been asking repeatedly whether or not you have an agreement in your present franchise contracts if there is a violation of the law, whether you can terminate that franchise. The answer to that is yes, you all do have that.

Mr. STEIN. Yes, we do.

Mr. Martinez. Then the questions comes, and maybe we are going at it a little wrong here and let me try to come for the other angle and see if we can get a clarification here. We have recently heard reports and I personally know that a lot of these reports are valid, that there has been an extreme number of violations of child labor laws.

In the two instances of the deaths that we heard about that were absolutely tragic, it moves one to want to cry about it, that these two companies were not one of the major franchisors. They were two independent companies. The thousands and thousands of violations may be occurring in a lot of companies who are not franchises so they would not have the kind of control that you have.

I think what the chairman is concerned about and I am too, is that where you do have control has there been a reported pattern and practice of child labor law violations and going further than that, to put it in these terms, you remarked that you counsel. How many times have you counseled any franchisee in 35 years?

Mr. Deal. This is a best guess on my part but I would say 50 or 60 times.

Mr. Martinez. How many were repeats?

Mr. Deal. None to the best of my knowledge.

Mr. Martinez. So your counseling with regard to the child labor laws has worked and they have not violated them again?

Mr. Deal. I am not saying that. I am saying to the best of my knowledge we have not had repeat offenders.

Mr. Martinez. Do you monitor them after you counsel to be sure they don't repeat offenses?

Mr. Deal. We have not in the past. One of the problems that we have as an industry is that we have not taken it upon ourself nor is there a third party mechanism in place——

Mr. Martinez. There is a third party mechanism. If there are violations cited by the Labor Department, then they ought to go in after a period of time after they have been assured you have done the proper counseling, to be sure there is no repeat offenses.

If you have an offense one time and that person has been couseled, you can assume and hope that it has been corrected, but just to assume that is not a responsible way to conduct your business. They ought to go back and check periodically.

Mr. Deal. That is why we are instituting field audits at least twice a year when we go to our franchise stores and we are obligating franchisees to notify us. In the past we were not able to go for information.

Mr. Martinez. You are establishing a lot of procedures by which you will be able to monitor and you will determine whether there is a flagrant pattern and practice. I know you will have to take them to court to eliminate a franchise. You cannot just say your franchise is gone. You will have to go to court and prove in the court that the person has violated the franchise agreement.

That being in place, I guess what the chairman has been asking you and each of us wants to know, are you going to now, even though there has not been in those thousands of reported child labor law violations your companies involved except to a small degree and at that time you assume they are not flagrant patterns and practices but sometimes violate.

You want to eliminate all that but you are now going to move to make sure you put in place a program that really does eliminate any potential for violations and the franchise stores, in the case of Burger King, have gotten a letter that if there is a continued flagrant violation, you are going to go into court and take away their franchises, right?

Mr. **Gibbons**. That is correct, sir.

Mr. **Lantos**. Congressman Schumer.

Mr. **Schumer**. I think we all agree you have the power to take away the franchise. We all agree you have never done it in the area of child labor. So the question is: What is the most egregious violation or violations of child labor laws that have occurred among your franchises? If there have been none, you are not doing anything wrong. If there have been some and you have not found them out or taken away the franchise agreement, then it is not working very well. So that is my question.

I think, Mr. Chairman, it would help the record to ask each of the four gentlemen here to just give us the most egregious violations you have found. You don't have to name the franchise, but just describe it.

Mr. **Stein**. We have one owner/operator who has been cited by the U.S. Department of Labor for a pattern and practice situation. That matter between the Department of Labor and the operator is a matter of litigation at the moment. The operator denies the allegations. We have sent that operator notice that if the allegations are correct, we consider the matter to be a serious violation of our license agreement and well act accordingly.

Mr. **Schumer**. That means close him down?

Mr. **Stein**. Correct.

Mr. **Schumer**. Has that only happened once?

Mr. **Stein**. Only once to my knowledge in our entire history.

Mr. **Schumer**. Mr. Black.

Mr. **Black**. If we have a situation where we would like to terminate someone for a violation, the best we can do under the law is to this individual into default. At the point they declared the default, we were not able to proceed with our process.

Mr. **Schumer**. You had one who violated laws and you moved to terminate?

Mr. **Black**. We would have loved to have done that, but were not able to.

Mr. **Schumer**. Because of the franchise law?

Mr. **Black**. Correct.

Mr. **Schumer**. I don't understand that as a lawyer. I am not familiar with the franchise law per se. I understand the reason it was passed to protect franchisees from owners who just might shuffle around the franchise very easily, but that has nothing to do with this. But usually in the law there is a provision that those kinds of things would not apply for violation of law.

Most agreements that I know of do not allow someone to keep his or her franchise or his or her right to do something while they continue to violate the law, no matter what the contract says. As a matter of fact, provisions in the contract or provisions in another statute would be null and void.

Mr. Black. The provisions give them a time period to correct the violations before we can act to terminate the contract.

Mr. Schumer. You are saying you could not terminate?

Mr. Black. We had a specific instance I would have loved to terminate. We could not do it because of the laws.

Mr. Schumer. Did you go to court?

Mr. Black. We could not because of the franchise process.

Mr. Schumer. I would like to explore that.

Mr. Lantos. What were the circumstances of the case without mentioning the name of the franchisee? Why were you so anxious to terminate it?

Mr. Black. It involved a 17-year-old driver delivering pizza

Mr. Schumer. Repeatedly?

Mr. Black. Yes.

Mr. Schumer. Mr. Gibbons, what has been yours, under Pillsbury, too.

Mr. Gibbons. To my knowledge, the one we had was a franchisee recorded at 300 violations. All of those, to my understanding, although we do not have the full information yet, were technical. But, I am not sure of that.

Mr. Schumer. You have not had an egregious violation, every violation has been technical?

Mr. Gibbons. I don't know that for sure.

Mr. Schumer. Particularly for Burger King which has been under this cloud because of what has happened, don't you think you should know that?

Mr. Gibbons. I have the details on it for my corporate restaurants where there was one hazardous violation since last year. We were talking about franchisees. I think there is an element of that in the violation here.

What we have done with the franchisee is advised him, although I would not call him guilty until he is convicted. But he has been notified that this policy will apply.

Mr. Schumer. This mean you will terminate if they are guilty of the 300 violations?

Mr. Gibbons. This means I will apply this policy on conviction.

Mr. Schumer. Assume there is a conviction of over 100 violations, what will you do?

Mr. Gibbons. I am not prepared to get to that.

Mr. Schumer. I guess that is the frustration that we are feeling here. While you certainly have the discretion to do what you wish, so far the record has not shown that you have done it, that you have exacted the maximum type of penalties that might be necessary.

I guess what the committee is looking for and the chairman and all of us are looking for is some way of being assured that the franchises, are mom and pop stores where there is no pressure.

If one Burger King or Little Caesar has a problem, it will reflect on the other several thousand. The question is what will be done, not what you have the power to do. That is the issue, I guess, that concerns us all. So far, you know an answer where you say you cannot say what you will do, I understand that.

I will give you hypothetical situation. Mr. Gibbons, if you found more than technical violations repeatedly, would you move to terminate under the conditions of your franchise contract and your letter?

Mr. **Gibbons**. I have simply said that I will treat each case individually with a backbone behind it saying how I will treat those cases.

Mr. **Schumer**. But that is going back to the total saying you will treat each case individually. That is the problem. Speaking for myself I do not find that very satisfying. That is the bottom line. I don't think you are simply saying that you will just treat each case individually. This gives anyone much assurance that added pressure will be added to the egregious franchise violator.

Mr. Deal, what was your most egregious franchise?

Mr. **Deal**. We had a franchisee that had about 40 violations. A complicating factor in this particular case is that a significant number of those violations, not a majority but a significant number, involved the use of our pizza dough sheeter, which is a machine which takes a dough ball and makes it into a pizza crust. On this piece of equipment we have a "no action" letter from the Department of Labor, indicating that this piece of equipment is safe and that we are not going to be fined for the use of this piece of equipment.

However, particularly under hazardous occupation 11, I believe it is, all pizza dough rolling equipment is considered hazardous and should not be operated by 16 and 17 year olds. We are in a continual quandry. Our position is that there should be no 16 and 17 year olds on the equipment. Yet they know we have a letter from DOL which says, "we will not fine for this."

Unfortunately, the State authorities don't know that. They come in and cite us and we have to go through a 6-month process. It is not as easy as saying if there are 100 violations, what are you going to do about it. In our particular case, 50 might involve that pizza dough sheeter. We know it is safe, DOL knows it is safe.

Mr. **Schumer**. Let me give a hypothetical situation to all four of you which Mr. Gibbons might have answered. Let's say you find in one franchisee a child is injured. They are having him work a machine and he is below age and he is significantly injured. We have heard instances about fingers in slicers and things like that. Let's say it happened and there is a violation cited.

Let's assume it happens a second time. Would you move to terminate?

Mr. **Black**. Yes.

Mr. **Stein**. Yes.

Mr. **Deal**. Yes.

Mr. **Schumer**. And Mr. Gibbons would take it under individual advisement.

Mr. **Gibbons**. No. I would move to terminate.

Mr. **Schumer**. Thank you.

Mr. **Martinez**. On the point Mr. Schumer was making on Mr. Gibbons' statement of taking on individual cases, I think Mr. Schumer would agree that you almost have to if you are going to be fair about it. Many of you stated in egregious reports that there were technical violations. That is not an egregious incident he was referring to. The last he referred to was an egregious incident. Evidently nothing like that ever happened before in any of your franchises so that is like he said hypothetical.

If you would indulge me, Mr. Chairman, I have another point.

Mr. **Lantos**. Surely.

Mr. **Martinez**. There are two things I want to address before I leave. Mr. Black, in your testimony in your reference to eliminating drivers under a certain age and checking records of safe driving records, et cetera. Your company and policy obviously ignores something that is inherent anytime you give a person a time limit to deliver a pizza.

Let me tell you something, I see them driving all over town in such a hurry to make that half hour deadline, in that policy you have created an unsafe situation for your drivers whether they are minors or adults, not only for them but for other people.

I don't know why you have that policy. When I suddenly realized after watching your drivers dart in and out of traffic and cut people off, that I won't buy Domino's. I now go to Jerry's Sub because it is less expensive and safer. I think you people ought to look at that. I don't care how safe a driving record someone has, if you put him under that pressure at certain times of traffic, they are creating an ultimate danger.

I don't know what this hearing can do about that but I think we ought to look at something to do about that because I think that is creating a hazardous situation.

Mr. **Lantos**. If my colleague will allow, he has really put his finger on what is really an extremely troubling phenomenon to this subcommittee, Mr. Black. I had hoped quite honestly that in your opening statement you would make a public declaration that this insane, inexcusable, absurd policy is revoked not just for 17 year olds but for all your drivers.

I don't want to have a meeting with the mother of an 18 year old who was trying to meet this insane 30-minute deadline on a slick, rainy highway for an advertising slogan. This is your opportunity to come clean on this. No one has starved to death by waiting for Domino's Pizza. If it gets there in 37 minutes, they will be just as happy.

Do you really think that it is responsible corporate leadership to establish, in an age when safe driving is so necessary with the tremendous congestion on our freeways and unsafe conditions, an advertising slogan that is backfiring on you? Are you prepared to change that policy?

Mr. **Black**. First of all, we are here to discuss the child labor law issues but I will address the concerns raised by the committee.

Mr. **Lantos**. The child labor law issues are directly related to that because it was a child as defined by law who was killed and whose beautiful mother was here testifying a couple of months ago. I wish you had been here. You would have deserved to have been here to listen to her.

Let me read something to you before you answer. We are discussing child labor laws and we are discussing your violations of child labor laws and the deaths that result from that violation. The question the Chair raises is whether, in view of the death that has been perpetrated here, you are now prepared to abandon this policy which has no substantive value of any kind.

When Suzanne Boutros, the mother, was here, she told us about an accident in Pittsburgh where a couple's car was struck by a Domino's driver hurrying out of the parking lot. She said the following, the mother whose child was killed by trying to meet your 30-minute deadline: "The store manager came running out, grabbed the pizza from the wrecked delivery vehicle, passed it off to another driver and said, let's get this pizza on the road. Not until the pizza was once again on its way, did that manager stop to assess the damage and see if anyone was hurt. Mary Jean was badly hurt and will live with chronic pain the rest of her life."

That is the verbatim testimony of the mother whose child was killed delivering your pizza. Can you respond?

Mr. BLACK. That case is in open litigation now. As a company we would prefer that incident be decided in the court system. I would prefer not to comment on that right now.

Mr. LANTOS. You mean the episode I just read to you?

Mr. BLACK. Correct. It is still under litigation and as such we should not comment on it at this time.

Mr. LANTOS. It is in litigation in what sense?

Mr. BLACK. It is still in the court system.

Mr. LANTOS. I understand that but what are the facts that are not in dispute?

Mr. BLACK. The facts of this case are still in dispute as far as the particular incident in Pittsburgh as to whether that was the actions of the particular manager and what the certain set of circumstances were in the case.

I absolutely feel for Mrs. Boutros and the loss of her son. It hit us as a company very hard.

Mr. LANTOS. Not as hard as it hurt her.

Mr. BLACK. I understand that. I lost a brother in an industrial accident. The 30-minute guarantee is something I would like to discuss because there is a lot of misinformation that is involved with that.

Mr. LANTOS. This is your chance.

Mr. BLACK. First of all, the 30-minute policy that we have of delivering pizza within 30-minutes is based on being able to make our pizzas quickly in the store and get them out quickly.

It is not based on having to drive crazily to get to the customer. We have map systems in the store second to none. Our delivery areas are a mile or a mile and a half in just about every place in the country. It takes us somewhere between 1 and 1½ minutes to get a pizza into the oven. We are the world's fastest pizza makers that we have been able to determine.

If the pizza is not out within 12 minutes in the store, we have the same guarantee. That gives us 18 minutes to be able to deliver the pizza to the customer and do it in a safe manner. Our drivers are not penalized for late pizza.

Mr. LANTOS. That is not true. We have heard testimony that they are called king of lates.

Mr. BLACK. That was part of an individual franchise's system that we were not able to terminate.

Mr. LANTOS. It was only one franchise who used that idiotic formula of ridiculing people for taking 32 minutes?

Mr. BLACK. Yes, sir.

Mr. Martinez. Mr. Chairman, that is symptomatic of the problem, the refusal of the fact that anytime you put people on a deadline like that, you create the need for them to hurry and you create the need for others to ridicule them.

You create the situation by that policy and you don't seem to acknowledge that.

Mr. Chairman, I do have to go now. May I cover one other thing with the rest of the franchisors? I believe you are all responsible. One of the things you ought to think about bearing on the testimony given by the teacher, Mrs. Lynch. For those people to come to work in your places, you ought to require that they maintain a C average and that they have a good school attendance.

You listed the special identification and all these things. That is great. But the thing she was addressing was the need for them to do well in school. That work experience should be a valued asset to the schooling and make them realize how much further they have to go.

I would love to see you consider adding to your policy the requirement for work in your franchise would be maintaining at least a C average in school.

Thank you, Mr. Chairman.

Mr. Lantos. Thank you, Mr. Martinez. Go ahead.

Mr. Black. We believe our drivers do not have to speed to meet the 30-minute delivery. That is part of the marketing advantage we have over our competitors. We believe we are more efficient in our stores and we are able to deliver pizzas quickly and have efficiently without having to speed. We have adopted some systems in our stores to make sure our drivers do not feel the pressure to speed.

We have an 800 number for they can call if the manager is putting pressure on them. We have an 800 number on our cars that people can call if they see our drivers speeding.

Mr. Lantos. How many calls have you received on the 800 line?

Mr. Black. We get approximately 10,000 calls per month on the 800 lines about everything.

Mr. Lantos. You are running a huge franchise operation. Your statistical system I am sure is excellent. What percentage of the 10,000 calls relate to complaints about unsafe and excessively fast driving?

Mr. Black. Very few. I don't have the exact percentage. I can get that to you.

Mr. Lantos. Would you say 1 percent maybe?

Mr. Black. Probably not that high.

Mr. Lantos. Less than 1 percent. If you get 1,000 calls, do you suppose it is half a percent?

Mr. Black. I really don't want to give a number by guessing.

Mr. Lantos. Would you accept my figure that out of 10,000 calls, 50 calls relate to complaints about unsafe driving? Would that be reasonable? Do you have a record of their complaints?

Mr. Black. Yes, sir.

Mr. Lantos. Let's say for the sake of argument, assume it is 50.

Mr. Black. I don't believe it is that high.

Mr. Lantos. Do you think it is 10 out of 10,000?

Mr. Black. I would say somewhere like that. It varies from month to month to month.

Mr. **Lantos**. Let's say 25 a month. That would be 300 calls a year. People must be agitated to call the 800 number because the pizza guy is driving too fast. What disciplinary actions have you taken on those 300 cases?

Mr. **Black**. The disciplinary action would be to go back to the franchisee or the manager for a reaction or a disciplinary action. We have terminated drivers from another program we have and that is where we have people in our system who follow our drivers around. If the drivers are driving recklessly, we have terminated them on the spot.

Mr. **Lantos**. You are an enormously talented and successful man, great capability and intelligence. That is self-evident. In your opening statement you said you started out delivering pizza and you are now the chief executive officer. That is the all-American success story and I salute you for it.

Just man to man, person to person, would it not make sense to give up that 30-minute policy? This is not a matter of religious faith with you, is it? It is an advertising slogan which is backfiring. It is backfiring even more.

Anybody is free to pursue any legal recreation he wishes. But I found it stunning that Domino's sponsored car 1 in the Indy 500 race last month. Well, I salute you. But I salute you with a question mark. Is this activity really consistent with your testimony, repeated emphasis on safe driving and local speed limits. What kind of an image does this victory give the 18 year old Domino's pizza drivers? It seems to me that just the public relations impact of this must be devastating. I mean, we listened to a lady whose son was killed trying to deliver pizza and your car wins the Indy 500.

You talk about safe driving. Would it not make more sense to say we all make mistakes? Congress does, goodness knows. Maybe Domino's Pizza has made a mistake and it would be a good time to consider the policy. Have you considered it?

Mr. **Black**. We have considered it. We have gone through a number of discussions internally. It is something that is of concern to us because of the image that the general public may have of us. It is a perception that the drivers have to speed to get the pizza delivered.

We are looking at that policy. We intend to continue to look at that policy to see if that is something we feel we should continue or discontinue.

Mr. **Lantos**. Gorbachev has instituted perestroika over the Soviet Union with less soul searching than you seem to require to abandon the 30-minute pizza delivery. We have a dead child. You have a congressional hearing which is concerned about this. We have such horrible publicity. It would be a statesman like gesture and the pizza would taste just as good in 33 minutes. You are not prepared.

Mr. **Black**. I came here to discuss the impact that we have on child labor laws and what we were doing about it. The impact we have been able to make on that is to not let anyone under 17 deliver for us.

Mr. **Lantos**. You testified that you employ no drivers under the age of 18, correct?

Mr. **Black**. In our company owned stores. Our franchisees have recently agreed to do that as well. We have made it a standard in our business.

Mr. **Lantos**. Can you explain to me the circumstances surrounding the following? My information is that March 22, 1990, this year a 17-year-old girl, Patricia Sulks, was killed in Ocala, FL, was killed as a delivery driver for Domino's. My information is that she was killed. It was not a driving problem. But that does not comply with that statement that no driver is under 18.

Mr. **Black**. That is correct. As soon as we found out this particular franchisee had a driver under 17, we put his franchise into default. It was a situation where we were only able to go as far as the default. They were able to correct the problem and remain as franchisees under the law. It is very frustrating.

Mr. **Lantos**. It is more frustrating for the mother of that 17 year old. It is a lot worse than what you go through as a corporation.

Mr. **Black**. The action was against the laws of the company and the United States.

Mr. **Lantos**. Have you taken the franchisee to court?

Mr. **Black**. No.

Mr. **Lantos**. Why not?

Mr. **Black**. We are not able to do that under the franchise agreement that we have with this particular individual.

Mr. **Lantos**. Are you revising the franchise contracts so you will be able to take people to court?

Mr. **Black**. After today's hearing, I will go back to our franchise attorneys and revise our contract and see what we can do to accomplish that.

Mr. **Lantos**. Congressman Pease.

Mr. **Pease**. Thank you, Mr. Chairman. I also want to thank our witnesses. I guess I would like to focus on the number of hours that young people work. For 14 and 15 year olds there is the statutory limitation. Mr. Stein you have suggested that McDonald's company policy is to come in under that statutory limitation.

I think that is good. I commend you for it. As you all know, for 16 and 17 year olds there is no statutory limitation on the number of hours or on the hours of the day and night that young people can work. My question is for each one of you, do you have any company policies when 16 and 17 year olds can work, which hours of the day, or how many hours during the week.

Let's start with Mr. Deal.

Mr. **Deal**. We do not have a specific policy that would address that issue. However the practical realities of our business are such that we do a majority of our business and Friday and Saturday evenings. The vast preponderance of our business is done during the traditional dinner period, 5 to 7 o'clock at night.

I mentioned earlier that our corporate policy is to not hire youths under the age of 16. Usually our shifts run 3 to 4 hours. Most of our kids work two to as many as four shifts a week. Our typical employee is in the 16-hour work week range and work is usually completed by 8 o'clock in the evening during the school week.

Mr. **Pease**. How late are your stores open in the evening?

Mr. **Deal**. During the week, generally until 11 or 12 o'clock.

Mr. **Pease**. How about the weekends?

Mr. **Deal**. On weekends usually until 1 or 2 o'clock. But we are a take-out business. Very few of our stores deliver. As I say, sometimes you don't get enough business to justify having more than one person in the store. Often we are down to one person in the store and that has to be a management person.

Mr. **Pease**. We are concerned about everything. Normally Congress has to legislate not because of how everybody is treated but how some people are treated. Not everybody is killed on the job. Not everybody is forced to work at the age of 13 or whatever. I just want to make it clear that you, to your knowledge, do you have employees who are 16 and 17? To your knowledge your stores are open until midnight in some cases during the school week. Would it be a fair assumption that you have employees 16 and 17 who are working until 11 o'clock at night on school nights?

Mr. **Deal**. I am sure that is the case in some of our franchise units. I don't believe it has happened frequently in our company stores.

Mr. **Pease**. You have no policy in this regard though?

Mr. **Deal**. No, I would not call it as firm as a policy.

Mr. **Pease**. Mr. Stein.

Mr. **Stein**. With regard to students working, and I would like to describe it in that way and we can get into specific age areas if you want.

Our policy is that we want students working no more than 15 hours in a school week so they will have sufficient time to do their studies.

Mr. **Pease**. That is regardless of age?

Mr. **Stein**. Yes, 16 and 17 year olds, high school students. That does not apply to college students. With regard to being in our restaurants until 11 or 12 o'clock at night we try to make sure that we don't have them doing that more than once or twice a week during school nights.

We try to limit the number of times that that would happen so that it would not cause them to have problems with their studies.

Mr. **Pease**. Is this a policy in your company stores?

Mr. **Stein**. That is correct.

Mr. **Pease**. How about the franchise operations?

Mr. **Stein**. The franchisees have different policies in this area. I could not give you one consistent policy. I know that we have been working very extensively with the National Association of Secondary School Principals on this particular principle and having our owner/operators meeting with their local principals to discuss these kinds of things that you are raising and agree between the local school, the students and parents as to what the hours should be in that particular area.

We have been very successful in causing that dialog to occur and have the teachers, the parents, the licensees, work out what they think fits into their local community and their situation.

Mr. **Pease**. Do you have a reporting requirement of any kind for your company stores or your franchisees on students who work, what hours they work, how many hours they work so you can see whether your policy is being implemented or not?

Mr. **Stein**. I don't keep statistics with regard to that, sir. Our management people tour our stores frequently and ask questions such as that to make sure that there is compliance.

Mr. **Pease**. Mr. Black.

Mr. **Black**. Our company policy for our corporate stores is that we don't have anybody under the age of 18 in there and the franchisees are expected to comply with their local State laws.

Mr. **Pease**. Mr. Gibbons.

Mr. **Gibbons**. Our corporate policy for 16 and 17 year olds is the tighter policy, State or Federal law.

Mr. **Pease**. So if the State does not have a law which is the case in many, many States and there is no Federal limitation on the number of hours 16 or 17 year olds can work or the time of day they start or the time of day they finish, then your company policy is that that is OK.

Mr. **Gibbons**. Our company policy is the law of the land, yes.

Mr. **Pease**. Do you feel any corporate responsibility at all to help young people balance the work requirements of your company versus their school work?

Mr. **Gibbons**. We do a whole range of programs other than the direct employment which we contract outside. We obey the law of the land for 16 and 17 year olds. The position for 14 and 15 year olds is tighter than 16 and 17 in our corporate restaurants.

Mr. **Pease**. Based on the testimony that you heard earlier today from the school teacher and the two young people here, does that raise any questions in your own mind about whether you should be satisfied with the following the law technically when the law has no tooth at all?

Mr. **Gibbons**. If the position was put forward that there is a frustrated population of under achieving teenagers, then I cannot help but agree with that. I would if I was in England, I probably would if I was in Japan. I am here to contribute to the solution. There is another population out there, a population that may not be able to succeed in life through academic areas and they join my corporation as a first stage of employment. Most of the management start at that stage and progress.

They may not have the aspiration or the wherewithal to go through the academic route. They are also in many cases actually funding academic programs as they go though life.

So we are seen as villains. But I must say there are another set of values out there that we are not recording in this testimony.

Mr. **Pease**. Mr. Gibbons, I understand that. I think you are right. I think it is a good work experience for those young people but I am not sure that even those who do not intend to go to college, who are not capable perhaps of a college career ought to spend some time in high school learning to read, write, and compute, learning a little bit about history and maybe learning a little about political science, what criteria to apply in voting for a Congressman.

We have heard testimony today that those young people are sleeping through their classes because they are working late at night.

Mr. **Gibbons**. Sir, we heard a point of view from a survey of 500 people. I put another value judgment in there that there is another population.

I share your frustration. Whether it is England or the United States, not enough of our academic potential is being realized. I suspect probably Japan does, if any child works there. There is another population that simply wants to be considered.

Mr. **Pease**. We are willing to consider them. I would like to ask one particular question arising from the fact that you not only do business around the world, but you also are headquartered in England. Can you give us any insights as to what your experience is with the requirements of the law and with the enforcement of the law regarding child labor in the United Kingdom compared with the United States?

Mr. **Gibbons**. I have had no direct involvement in my experience in industry where there has been a relevant comparison. When I was in the United Kingdom, my business did not allow the employment of minors under age 18. So I don't have relevant experience to give you, sir.

Mr. **Pease**. Mr. Stein, if I might ask you a question, in your statement you say that the typical worker at McDonald's is not usually the upper middle class youngster looking to buy a second stereo but is from a family that needs to augment their income by the earnings of part-time work. I think Mr. Gibbons was referring to that also.

On what basis do you make that statement?

Mr. **Stein**. We all do profiles of the types of people that we are employing. It is from those profiles and having done hundreds if not thousands of them, that is what I would base that on.

Mr. **Pease**. Let me turn, if I might, to one other matter, that is back to the discussion you and Mr. Lantos had at some length before about 20 of your franchised operations were cited during the recent sweep. You made the statement that several hundred of your franchise operations have been inspected. I think Mr. Lantos tried to pin you down to 200 or 300.

I want to be sure the tense is correct. Are you saying 200 or 300 of your operations were inspected in the course of this recent sweep or that when you say "have been inspected" that implies a somewhat longer period of time?

Mr. **Stein**. I am not entirely sure of the dates of the sweep. I am dealing with the last 4 or 5 months, over that length of time.

Mr. **Pease**. Would you mind submitting for the record when you get a chance to check that out?

Mr. **Stein**. I would be delighted to.

Mr. **Pease**. Finally, I would just like to make the statement that the fact that you have an exemplary record with the Department of Labor, as you say in your statement, inasmuch as they have only cited 20 out of your how many thousand franchises or corporate owned stores, that does not impress me a whole lot.

From your point of view I think that is OK. But I just make the point that I think the Department of Labor has been woefully inadequate in making the inspections. So there can be tens of thousands of violations out there which the Department of Labor never would have picked up.

My information which I think is correct is that standard policy among the Department of Labor inspectors around the country is not to inspect the site until there have been five complaints from outside, five different complaints about the same installation.

Now with that kind of zeal for enforcing the law, it is nice that you have only picked up 20, but I would not want the impression to stay out there that that means that there are not other violations.

Mr. STEIN. My reference to exemplary was to my experience with company owned stores over the last 16 years. With regard to the 20 owner-operators, that is not satisfactory to us. We think we need to improve that and we are working very diligently.

Mr. PEASE. I am not being critical of you when I say this but even for your company owned stores, the fact that you have been cited very seldom does not mean as much as it might if we know the Department of Labor has not been around to inspect. This it not a criticism of it. It is a criticism of the Department of Labor.

Mr. STEIN. Over the 16 years there have been thousands of investigations of company stores during that period of time. So my reference takes that into consideration.

Mr. PEASE. Mr. Chairman, I would like to thank our panel again and say that it is clear to me, one, that the hearings the chairman has held before have gotten the attention of the corporate community in the fast-food industry. I think that is good. I do commend all of you gentlemen for the efforts that you clearly are making.

I think that is a big step forward. The fact that you have not reached perfection or that there may be some aspects that other members have raised and I have raised that are still unsatisfactory, does not in my mind take away the credit that you truly deserve for the effort that you have been making thus far.

I thank you for your testimony.

Mr. LANTOS. Thank you Congressman Pease.

Congressman Schumer.

Mr. SCHUMER. Thank you.

I want to make one point before asking a few questions. That is, just by universal agreement the problem is far worse in individually owned and operated smaller businesses, so if we have a problem in these stores with their franchises it is just the tip of the iceberg in terms of the problem that exists throughout the country.

Mr. Stein, you were able to terminate certain franchises, you and Mr. Deal mentioned you were able to terminate franchises not necessarily for child labor but other reasons.

Mr. STEIN. A limited number, yes.

Mr. SCHUMER. Why didn't the franchise law stop you from eliminating them?

Mr. STEIN. I think there are things in the franchise law that ask that a franchisor act reasonably as it was proceeding. It was concluded that we were acting properly and reasonably.

Mr. SCHUMER. I am very upset about Mr. Black's testimony here because I don't think Domino's is really trying very hard. I will get to that in a bit. Do you agree with Mr. Black's reasoning that as long as the franchisee corrects whatever problem, not matter how egregious it is, that the franchise law does not allow you to terminate? I understand company solidarity but I am asking you a question and I want to have a straight answer.

Mr. **Stein**. All I can do is answer from a McDonald's standpoint.

Mr. **Schumer**. Does the franchise law prevent you from terminating franchisees as long as they correct the previous problem?

Mr. **Stein**. I hope this is not a decision that there would be a five to four split among the bench because I am not sure I am fully qualified to answer the question.

Mr. **Schumer**. Let me go through it step by step. Have you terminated franchises?

Mr. **Stein**. Yes, we have.

Mr. **Schumer**. Have you gone to court to sometimes do that?

Mr. **Stein**. Yes, we have.

Mr. **Schumer**. Mr. Deal, have you terminated franchises?

Mr. **Deal**. No, we have not.

Mr. **Schumer**. I thought you said you terminated 50 or 60.

Mr. **Deal**. No. I never said that.

Mr. **Schumer**. Mr. Gibbons, have you terminated franchises?

Mr. **Gibbons**. Yes.

Mr. **Schumer**. Have you gone to court to do it?

Mr. **Gibbons**. Yes, we have.

Mr. **Schumer**. Mr. Black, what is this gobbledygook that you cannot go to court to terminate a very bad franchise? Have you ever gone to court to terminate?

Mr. **Black**. Yes, but not under the child labor issue.

Mr. **Schumer**. So you have gone to court?

Mr. **Black**. Absolutely. We have terminated.

Mr. **Schumer**. Why can't you do it for child labor law? What were the grounds in the other franchisees?

Mr. **Black**. Pattern and practice of the franchisee disregarding the laws, if they did it in child labor laws, we would be able to terminate.

Mr. **Schumer**. You would be able to?

Mr. **Black**. Yes, but not on one instance.

Mr. **Schumer**. Is that because of your contract with them?

Mr. **Black**. That is correct.

Mr. **Schumer**. Why don't you change the contract?

Mr. **Black**. Up until now I am not sure we have had the ability to do that. That is something I will look into as soon as I get back. I will see if there is a way.

Mr. **Schumer**. I am appalled by this instance with the 17 year old. You want it both ways in a sense. You want to have this 30-minute ruling yet you don't want to go as strongly as you can when the 30-minute rule produces, when other things that might make this 30-minute rule even more dangerous than it is, can be dealt with.

You are saying with the 17 year old your contract prevented you from going to court.

Mr. **Black**. Because there has not been a pattern and practice with that individual franchisee. It was a specific single incident.

Mr. **Schumer**. You are the CEO, do you think you will change that?

Mr. **Black**. Yes.

Mr. **Schumer**. That is good to hear.

Why doesn't Domino's have a rule that any driver, not matter what age, who gets one speeding violation loses the right to work at Domino's forever more?

Mr. **Black**. Our rules regarding the MVR's and the driving record of our drivers is that they are tougher than that——

Mr. **Schumer**. That is not my question.

Mr. **Black**. I want to get to your question but I want to make a statement that our driving requirements are tougher than they are in any single State as far as the ability to have a driver's license and be able to drive in that State. I believe if we eliminated everybody from the labor pool who had had one driving violation——

Mr. **Schumer**. While doing the job, not previously, while on the job driving to the deadline.

Mr. **Black**. Drivers that do get speeding tickets while on the job are terminated.

Mr. **Schumer**. Are terminated immediately? That is good to hear.

Finally, perhaps just one other suggestion. I also agree that I think this 30-minute rule inevitably causes real problems for you. It causes real problems not just for you, but endangers life and limb for everyone of us.

He is in California. I am in New York. I see the blue, orange, and white trucks, station wagons, dipping in, dipping out. There are only two—they are worse than New York cab drivers and about as bad as New York tow truck operators who also, ironically, are allowed to rush to the scene to be first to the accident so they can get the tow.

But my point is that it does harm. Now, you are saying because it interferes with your profitability or whatever, you want to keep it, which is a decision that I think the public should know about and make a decision based on that. You know, maybe they will go to the place that Mr. Martinez went.

But my question is this. Why can't you change the rule to guarantee that the pizza will be out of the store. You say you have the world's fastest—it is based on the pizza-making speed. Why can't you do a rule that says the pizza will be out of the store within 4 minutes or within 7 minutes or whatever, you know, how ever long you want to make it rather than it will be delivered to your house in 30 minutes. Then you would still have the advertizing appeal. You would still be the quickest. Yet, you won't put people under such danger.

Mr. **Black**. One of the things I did not get to mention as part of my process with the 30-minute issue earlier is we do have a rack time policy that any pizza that is still in the store at 25 minutes is automatically marked late. We do have that as part of this process. Maybe that would be a better direction to go as far as the long term.

Mr. **Schumer**. I think all of us on this committee and lots of people would urge you to consider that.

Thank you, Mr. Chairman.

Mr. **Lantos**. Thank you very much.

Mr. Stein, you testified there are about 1,700 employees who are between 14 and 15 years old. That is by your own——

Mr. **Stein**. Yes.

Mr. LANTOS. How many 14 and 15 year old's do you have in the franchisees' employment?

Mr. STEIN. A guess. We do not keep records at McDonald's.

Mr. LANTOS. Do you keep records of how many filet a fish sandwiches you sell?

Mr. STEIN. I think purchasing people keep inventory records.

Mr. LANTOS. Wouldn't it be as important to know how many 14 and 15 year old's work for your franchisees?

Mr. STEIN. Sir, what is of interest to us is that they comply with the laws and that they fully understand what their obligations are. We do not keep a lot of statistical information other than ensuring that they are doing as I have indicated.

That doesn't mean we shouldn't consider doing that. But we just have never kept that kind of statistic in the past.

Mr. LANTOS. Were you to keep records and you would find that some franchisees have a disproportionate number of very young workers, would that give you cause for concern?

Mr. STEIN. Yes, it would, sir.

Mr. LANTOS. But you can't be concerned since you don't have that statistics?

Mr. STEIN. If I can, sir, our field consultants visit the owner-operator stores a great deal. That information should generally be picked up during those visits. I don't mean to suggest there can't be an exception. But, we do visit those restaurants quite a bit and would notice if there are a great deal of young people on the premises.

Mr. LANTOS. Gentlemen, I want to commend you for all of the positive things you have done. I want to express my disappointment for the reluctance with which you are approaching additional steps that need to be taken in the future. I am particularly intrigued by one set of answers that kept coming back. I would like to ask you to ponder over this, perhaps respond.

Several times one or several of you said that you comply with the law, State law or Federal law. I appreciate that and I respect that. One of the frequently raised criticisms at the Congress is that we pass too many laws. I suspect we do partly because without the passage of laws highly desirable goals are not pursued by private voluntary action.

A number of you have had an opportunity during the course of these hours that we have spent together to sort of be forthcoming with respect to revising franchise agreements. Abandoning the 30-minute policy, what have you, to sort of show corporate leadership, to indicate that you don't need laws to do certain things.

We talked about children working until midnight. Your answer was if there is no law against it, that is all right. You said, Mr. Stein, you try to have late work take place only once or twice a week. Is that correct?

Mr. STEIN. I also indicated that we work very, very closely with the national association of——

Mr. LANTOS. I heard that. I heard that, but that doesn't do it really.

Mr. STEIN. If you are asking, sir, and I don't mean to argue or be disrespectful. But if you are asking about leadership, we believe we are providing a great deal of leadership in this area, and our record demonstrates it. We do a great deal of work in this area. We have——

Mr. LANTOS. You do a lot of useful things. The focus of the hearing is not to have a public relations commerce for the fast food chains, but to focus on the problems.

Let me ask you this question. You and I, I am sure, agree that for a 14 year old, a 15 year old to work in a store until midnight and then go home and then get ready for school the next morning is not a very desirable procedure.

Mr. STEIN. That would be appalling to me.

Mr. LANTOS. Well, but it could happen at some of your franchisees' locations, could it not?

Mr. STEIN. An exception could have happened, yes. But that is not the norm that I have seen. That is not the typical thing that happens.

Mr. LANTOS. It is not the norm you have seen. But why aren't you considering instituting policies that will make those things unacceptable at McDonald's?

Mr. STEIN. I think it goes to the very relationship in the United States of a franchiser, franchisee. These individuals have their entire resources invested in their business.

Mr. LANTOS. I understand that.

Mr. STEIN. It is their livelihood, their success, their future. We would think that any operator acting reasonably, once we have provided the information necessary to comply with the law that the kind of operator we would want in our system is the kind of operator who would comply with all of those things.

Mr. LANTOS. We all agree with that. But the whole point is that we have laws and we have policies because not everyone does what he ought to do. So merely an incantation of expected good intentions and good performance is not adequate. That is why we are having this hearing. You see, we all agree—I know all four of you do—that child labor law violations are unacceptable.

Mr. STEIN. Absolutely.

Mr. LANTOS. The Department of Labor went out and in 3 days found 15,000 of them, some of them in your stores. So the incantation of good intentions does not make for policy, either public policy or corporate policy.

So we have got to go beyond expressing the hope that good things will happen.

I would merely like to ask all of you to very seriously consider the ramifications of this hearing. These hearings have given us an opportunity to present to the American people all of the many good things you are doing, for which we salute you. I do.

It has also pointed out some reluctance to move beyond where you now are in a number of areas. And I can only say that you have infinitely more power to improve child labor conditions in your respective corporate enterprises than we do. The only power we have is limited basically to two arenas. One, legislation, and two, the holding of oversight hearings which we hope will not be necessary. Because if the Department of Labor does its job and if you do your job, the number of violations will drastically plummet, and our opportunity to meet will be restricted to social occasions, which I suspect both you and members of this subcommittee would prefer to these kinds of encounters.

But let me serve notice that this subcommittee is not going away, that child labor and child labor law violations will be very much a concern of all of us. It is a concern of all of us because we feel that for all of the reasons that we have discussed here, child labor laws have a role ranging from the competitive international position of the United States, vis-a-vis Japan and other countries, to the protection of the health and safety and ability to productively learn of millions of our teenagers.

I want to commend you for what you have done. I want to urge you to do more. I hope that we have not kept you too long.

Thank you.

Our next panel consists of Mr. Donald R. Ferrell, president, Donald R. Ferrell Associates from Dallas, TX, and Mr. Arthur Shirk, president, Rigidply Rafters, Richland, PA.

If you will please stand and raise your right hand.

[Witnesses sworn.]

Mr. LANTOS. We are pleased to have both of you, gentlemen. Your prepared statement will be entered in the record in its entirety. You may proceed in any way you choose, Mr. Ferrell.

STATEMENT OF DONALD R. FERRELL, PRESIDENT, DONALD R. FERRELL ASSOCIATES, DALLAS, TX

Mr. FERRELL. Mr. Lantos and what is left of the committee, my career in the newspaper business began in Nashville, TN, when I was 12 years of age. I started out selling newspapers on a corner, working my way through a paper route. In 1971 I had attained the title of home delivery manager.

At that time, I had a 7-year-old son who was born deaf. We were given a choice of moving to Knoxville where they have the Tennessee School of the Deaf or St. Louis where they have another school for the deaf. It is an oral school. We wanted our son to have an oral education.

I moved to St. Louis and tried to secure a job with the two newspapers there. Unfortunately, they were not hiring. I went to work for a company that solicited newspaper subscriptions, a company by the name of Circulation Sales, Inc.

After 3 or 4 years of working for this company, I formed my own company. I was selling newspaper subscriptions for the St. Louis Post-Dispatch. Later on I moved to Fort Worth, TX, and went to work for the Fort Worth Star Telegram.

After 7 years in Fort Worth, I entered into a contract agreement with the Dallas Times-Herald to provide circulation solicitation services. For 5 years I have run the company that I have now.

My crews are recruited in middle class and lower middle class homes. We get a good mix of people, Hispanic, black, and white. We do not want crew managers to work with young people unless the youth and parents have signed a contract agreement.

Crew managers are independent, deciding where and how they will operate. Crew managers turn in orders from subscribers for newspapers at various times during the week.

Not everyone in this country grows up in a stable home with two parents and enough money. That is not the way the real world works in 1990 and not the way it has ever been in my lifetime. That ideal exists only on television, basically a pipe dream.

If my experience is correct, Dallas leads the Nation in divorce rates. Over 50 percent of the marriages end in divorce. Society has changed since the enactment of the child labor laws in 1938. The youth crews which we work have accomplished something positive both for newspapers and for the crew members themselves.

Crew members and their parents know this to be the truth. The crew members are enthusiastic about their accomplishments and are proud of their good work. Outstanding crew members earn savings bonds and scholarship bonds. The program provides opportunities that are not otherwise available for these young people. It provides a positive experience for young people. I can speak at great length about the benefits of this program, and I feel great about what I do.

My own son, my No. 2 son, who is now 23, came up in this program. He was a shy, timid boy and started crewing when he was 14. He could also speak for what the experience has done for him. I would hate to see this program taken away from young people because I feel there is a tremendous need for it.

I get a lot of pleasure in knowing that I have kept these kids off the streets. They have an opportunity to make money honestly as opposed to running with a gang or selling drugs or doing drugs. There is a definite need for positive activities in this day and for this generation.

Young people need to have the opportunity to do something other than just stand on a street corner and to get into trouble. Crewing has advantages over the active job openings for young people. When they work at a fast food restaurant, and I hate to pick on the fast food establishment, they have to work set hours. That business cannot function unless the staff is there. There is far less pressure in crewing.

Crew members are independent contractors. They do not work every day. They do not have to work every day. We cannot and would not insist on that. For example, during exam week we do not crew. We tell our crews that their grades are more important. I have always told the kids that if you have a lot of homework, please take the night off. The job is not that important.

In the old days, newspapers were delivered by youth carriers who often had to get up well before the sun and walk their routes. At night they would collect for the deliveries and try to generate subscribers. The laws exempted that activity because it was the way that many of our business leaders and statesmen first earned a dollar, first learned about a business and first took a step into the real world on their own.

This exception is still contained in the child labor provision as interpreted by the Department of Labor. The exemption also covers newspaper carriers who solicit on their own routes. Their soliciting activities are no different than those of our crews.

Times have changed. Today increasingly the daily and Sunday newspapers are delivered by adult carriers. The opportunity to throw a newspaper route available for earlier generations of young people is no longer there for today's youth. But the need to earn money, experience, and receive respect is still there.

Please do not allow misguided idealism and governmental paternalism to close that door for this generation. They desperately need an alternative to the street corner and the dangers associated with that irresponsible life style.

Thank you.

[The prepared statement of Mr. Ferrell follows:]

STATEMENT OF DONALD R. FERRELL
BEFORE THE
EMPLOYMENT AND HOUSING SUBCOMMITTEE
OF THE
COMMITTEE ON GOVERNMENT OPERATIONS
JUNE 8, 1990

I am Donald R. Ferrell, president of Donald R. Ferrell and Associates. My firm contracts with newspapers to solicit subscriptions. We operate only in the Dallas-Fort Worth area of Texas.

Personal Background

My career in the newspaper business began in Nashville, Tennessee, when I was about 12 years of age. I started in single copy sales by selling newspapers on street corners and worked my way through the ranks.

In 1971 I was a home delivery manager for the Newspaper Printing Corporation in Nashville, Tennessee. My family moved to St. Louis so my son could attend the Central Institute for the Deaf. I went to work for Earl Milne, who at that time ran a company that solicited subscribers for newspapers. I became the account manager and supervised the crew operation and telemarketing.

After three or four years, I formed my own company, Circulation Promotions, Inc. We worked under a contract to solicit subscriptions for the St. Louis Post-Dispatch. Later I worked in circulation sales in Fort Worth, Texas.

Present Business

After seven years in Fort Worth, I entered into a contract with the Dallas Times-Herald to provide circulation solicitation services. For five years I have run the present program. It has been very successful.

If crew operations are not well run, they cause problems for all involved. Operations that are poorly run, in which crew members work and then are not paid, do not last long in this business. If crew members and their parents complain, newspapers will not continue to use that type of operation. Successful operations are well-planned and use high quality crew managers and crews. These efforts translate directly into increased circulation sales for the newspapers.

Crew Managers and Their Solicitation Operations

Our crews are recruited from middle-class and lower middle-class homes. We get a good mix of people, Hispanic, black, and white. We do not want crew managers to work with young people unless the youths and their parents have signed a contract. Our program affords these young people the opportunity to make $50 to $100 a week. Some make $150-$200 a week, based on how good they are at selling. Many take that money home to help their single parents.

The crew managers and crews are independent, deciding where and how they will operate. Crew managers turn in orders from subscribers for newspapers at various times during the week. We figure the crew managers' commissions and then each crew manager submits a payroll register showing how much is owed to each crew. The crew manager sets the rates to be paid to the crew members. We have no control over that. As a service for the crew managers, we write checks for the crews based on the payroll registers. Crew managers are charged for this payroll service.

In years past I worked directly with crews. When I worked with crews, the crew manager's goal was to have the crews on a drop at 6:00 p.m. because that is when people are at home. Most orders are written between 7:00 p.m. and 8:30 p.m. during the week. Crews would never knock on doors beyond 9:00 p.m. On Saturdays the crews did not begin their routes until 10:00 a.m. If they knocked before that time they would wake people up, and they could not sell to people who were roused out of bed. The crews usually would work until 4:00 or 4:30 p.m., with time off for lunch. It is my understanding that crew managers still operate in this way.

Benefits of Crew Experience

Not everyone in this country grows up in a stable home with two parents and enough money. That is not the way the real world is in 1990 and not the way it has ever been in my lifetime. That ideal exists only on television, a pipe dream. If my experience is correct, Dallas leads the nation in divorce rates. Over 50 per cent of marriages there end in divorce. Society has changed since the enactment of the child labor laws in 1938.

The youth crews with which we work have accomplished something positive, both for newspapers and for the crew members themselves. Crew members and their parents know this to be the truth. The crew members are enthusiastic about their accomplishments, and I am proud of their good work. They receive substantial commissions for the orders they write. In addition, they participate in incentive and recognition programs. They earn trips and trophies for collections. Outstanding crew members earn savings bonds and scholarship bonds. The program provides opportunities that are not otherwise available for these young people.

A single parent called me recently to offer her support. She said that three of her kids had worked in crew operations. All three now are university graduates. She said that there was no way they could have made it if they had not worked through the program. She said it is absolutely ridiculous for the government to tell young people that they cannot do this anymore.

Crewing provides a positive experience for young people. It is amazing how many former crew members still keep in touch. They are adults now but they grew up in this program. It is always gratifying to know that you provided, not only a job for them, but a great deal more. Crew managers work with young people who do not live with their fathers, who do not have a father figure or a positive role model in their lives. They confide in their managers things that they would not tell their parents.

I can speak at great length about the benefits of this program. I feel good about what I do. I have been teaching a Sunday school class at my church now for about seven years and I got into it because they were having a discipline problem with those young people. They asked me if I would come up and just be an adult presence. I can honestly say that in the seven years that I have been teaching Sunday school that I have never had a single discipline problem. I think it is attributed to the fact that I have so much experience in dealing with youths. I would hate to see this program taken away from young people because there is a tremendous need for it.

I get a lot of pleasure in knowing that I have kept these kids off the streets. They have an opportunity to make money honestly, as opposed to running with a gang or selling drugs or doing drugs. There is a definite need for positive alternatives in this day and for this generation. Young people need to have the opportunity to do something other than just stand on a street corner and get in trouble.

Crewing has advantages over the alternative job options for young people. When they work at a fast-food restaurant, for example, they have to work set hours. That business cannot function unless the staff is there. There is far less pressure in crewing. Crew members are independent contractors. They do not work every day and do not have to work every day. We cannot and would not insist on that. We do encourage them to work around their homework schedule and around their school schedules. We do not have to close the store when crews are unavailable. We are very flexible in that area. For example, during exam week we do not crew. We tell our crew members that their grades are more important.

The Department of Labor Investigation

Our crew operations are conducted entirely within the state of Texas. Our crews are recruited from and operate only in the Dallas-Fort Worth area. Because the operations of these crews are totally intrastate, it is my understanding that they are not covered by the federal law.

Although we were confident that the Department of Labor has no jurisdiction over our activities, we cooperated fully when investigators from the Department requested access to our books. Marion Dickens of the Department of Labor said he was just investigating to see what we were doing. On numerous occasions in front of witnesses he said that the Department was not going to put us out of business. We repeatedly informed the Department that there was no basis for federal jurisdiction over our operation.

Based on Mr. Dickens' investigation, we were cited with an enormous civil penalty claim. Not one of the forms prepared by the Department of Labor cites any evidence of the use of crews in interstate commerce. We are outraged that the Department of Labor has totally ignored our repeated requests to focus on the most fundamental element needed to establish that the law is applicable. We have, of course, filed a letter of exception and expect to prevail, if we are not driven out of business first by the cost of contesting this claim.

Because of the pending Department of Labor action and the fact that we have not had an opportunity to review their proof, it would not be appropriate for me to say anything further about my own situation at this time.

Conclusion

In the old days newspapers were delivered by youth carriers, who often had to get up well before the sun and walk their routes. At night they would collect for their deliveries and try to generate new subscribers. The laws exempted that activity, because it was the way that many of our business leaders and statesmen first earned a dollar, first learned about business, and first took a step into the real world on their own. This exemption is still contained in the child labor provision. As interpreted by the Department of Labor, the exemption also covers newspaper carriers who solicit on their routes. Their soliciting activities are no different than those of our crews.

Times have changed. Today, increasingly, the daily and Sunday newspaper is delivered by adult carriers. The opportunity to throw a newspaper route that was available for earlier generations of young people is no longer there for today's youths. But the need to earn money, experience, and self-respect is still there.

Please do not allow misguided idealism and governmental paternalism to close that door for this generation. They desperately need an alternative to the street corner and the dangers associated with that irresponsible lifestyle.

Mr. **Lantos**. Thank you very much, sir.

Mr. Shirk.

STATEMENT OF ARTHUR SHIRK, PRESIDENT, RIGIDPLY RAFTERS, RICHLAND, PA

Mr. **Shrik**. I am president of Rigidply Rafters.

I would like to greet you, Mr. Chairman and colleagues. I appreciate what I have learned today. This has been very beneficial to me.

Mr. **Lantos**. I am glad to hear that, sir.

Mr. **Shrik**. I am also concerned with what is happening. I have a brief statement I would like to read.

Mr. **Lantos**. Please go ahead.

Mr. **Shrik**. OK.

It has been, never been the intent at Rigidply Rafters Inc. to be in violation of any law. I would like to express my apology before this committee and for any violation which may have occurred.

This is the first violation we have received in over 30 years in business and hopefully the last.

The violation for which we were charged were for allowing a minor to operate a wood-cutting machine and a fork lift truck. The operator of the wood working machine was against our policy rules and was in deviation on part of the employee.

The operation of a fork lift was a result of a lack of knowledge that its use was prohibited. Only 3 out of the 77 employees we—pardon me. Strike that.

Only 3 out of the 77 employees are under the age of 18. These minor employees are no longer in school and need the employment to support themselves and their families. We will continue, as we have in the past, to endeavor to abide by the child labor law and all other laws of our government.

I am willing to answer any questions that you have concerning employment and practices at Rigidply.

Mr. **Lantos**. Thank you very much, sir.

If I may begin with you, Mr. Ferrell.

What is the age of the youngest worker that you employ?

Mr. **Ferrell**. Fourteen today.

Mr. **Lantos**. I am sorry?

Mr. **Ferrell**. Today, 14 years of age. That is the youngest I have working today.

Mr. **Lantos**. How about 2 months ago?

Mr. **Ferrell**. Fourteen.

Mr. **Lantos**. How about during the last year?

Mr. **Ferrell**. We have contracts that—we have some, had some 13's, 12's, a couple of 11's, one 10.

Mr. **Lantos**. How many hours did the 10 year old work for you a week?

Mr. **Ferrell**. Again, they didn't work for me personally. They worked for one of my contract——

Mr. **Lantos**. Indirectly, I understand.

Mr. **Ferrell**. Yes.

You asked how many hours?

Mr. **Lantos**. Yes.

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Mr. **Ferrell**. I have no way of knowing that.

Mr. **Lantos**. Well, what was the usual pattern of work of these children?

Mr. **Ferrell**. The usual pattern, I have run a crew—of the 5 years that I have had my company, I have run a crew 3 of those 5 years. For me, we usually would pick the kids up around 5:30 in the afternoon, try to have them on the drop by 6, work until 8, 8:15 and try to have them home by 9.

To my knowledge——

Mr. **Lantos**. Were all of your crews operating on this same schedule?

Mr. **Ferrell**. To my knowledge, yes, sir.

Mr. **Lantos**. Is it possible that some of them worked until 10?

Mr. **Ferrell**. I'm sorry?

Mr. **Lantos**. Is it possible that some of these children worked until 10 o'clock?

Mr. **Ferrell**. I know it has always been a policy of me and my company and the industry that we never, ever knock on a door past 9 p.m.

Mr. **Lantos**. Then they have to get home from wherever they are?

Mr. **Ferrell**. Right, that's correct.

Mr. **Lantos**. Now, your testimony, sir, is that as of now the youngest child working for you is 14?

Mr. **Ferrell**. That's correct.

Mr. **Lantos**. How do you feel—why did you discontinue using 10, 11, 12 and 13 year old's?

Mr. **Ferrell**. To be honest, again, I never intended to work 10, 11 and 12 year old kids. I shouldn't say that. Ten and eleven, period. It has always been a rule in my company that children have to be at least 12 years of age to 13. And we, about 6 months ago, eliminated the 12- and 13-year-old kids that were working and now are strictly going with 14 and 15 year old's and older.

Mr. **Lantos**. When did you eliminate the 10 and 11 year old's?

Mr. **Ferrell**. Again, I don't even remember when they worked. That was not made aware of me until the Labor Department came out and went through my contracts and brought that to my attention.

At that time I was not aware I ever had a 10- or 11-year-old kid working.

Mr. **Lantos**. I understand you.

How long did the 10 year old work without your knowledge?

Mr. **Ferrell**. I do not know the answer to that.

Mr. **Lantos**. Nor the 11 year old?

Mr. **Ferrell**. No.

Mr. **Lantos**. You know for a fact there were 10 and 11 year old's working for your operation?

Mr. **Ferrell**. Let me put it this way. I have a contract in my office signed by supposedly the 10 year old and signed by his parents. Whether or not this kid actually worked, I do not know the answer to that question. I know I have a contract. That is still something that we are still trying to work out with the Labor Department.

Mr. **Lantos**. Assuming that he did work, how would he have gotten paid?

Mr. **Ferrell**. The crew managers are compensated on commission. When they turn in their orders each week, they are paid so much for their orders. At that time they submit to me a payroll register telling me how much they want to pay their kids. And I in turn write the checks for the solicitors. And I charge the crew managers a fee for providing that service.

Mr. **Lantos**. Was there ever a check issued to the 10 year old?

Mr. **Ferrell**. Again, I do not know the answer to that question right now.

Mr. **Lantos**. Will you submit that for the record?

Mr. **Ferrell**. I sure will; yes. sir.

[The information follows:]

NO. 011196

DONALD R. FERRELL and ASSOCIATES, INC. DALLAS, TEXAS MICHAEL RUTLEDGE

EMP	DPT	REG		MISC	TOT.EARN
041	041				10.00
SOC.SEC.NO.		COMM			
566-55-2589		10.00			
PAY-ENDING					
12/17/88					

RESERVE	INSURANCE	PAYROLL FEE	PROMOTION EXPENSE	ADVANCE	TOTAL-DED
1.00	.50				1.50

FED.W/H	FICA	TOT.TAX

YTD-GROSS	YTD-FWT	YTD-INS	YTD-RESRV	YTD-FICA	CHECK-DT	NET-PAY
10.00					12/17/88	8.50

CHECK# 011196

DONALD R. FERRELL and ASSOCIATES, INC.

8585 NORTH STEMMONS FREEWAY
SUITE N-707
DALLAS, TEXAS 75247
(214) 634-7086 METRO (214) 263-2902

TEXAS COMMERCE BANK / ARLINGTON
P.O. Box [illegible]
Arlington, Texas 76004

NO. 011196

CHECK NO
011196

DATE 12/17/88

AMOUNT ********8.50

EIGHT DOLLARS 50 CENTS

PAY TO THE ORDER OF MICHAEL RUTLEDGE

NON-NEGOTIABLE

AUTHORIZED SIGNATURE

⑈011196⑈ ⑆111921861⑆ ⑈3 33344⑈

DONALD R. FERRELL and ASSOCIATES, INC. DALLAS, TEXAS MICHAEL RUTLEDGE

EMP	DPT	REG		MISC	TOT.EARN
041	041				13.50
SOC.SEC.NO.		COMM			
566-55-2589		13.50			
PAY-ENDING					
12/31/88					

RESERVE	INSURANCE	PAYROLL FEE	PROMOTION EXPENSE	ADVANCE	TOTAL-DED
1.35	.50				1.85

FED.W/H	FICA		TOT.TAX

YTD-GROSS	YTD-FWT	YTD-INS	YTD-RESRV	YTD-FICA	CHECK-DT	NET-PAY
23.50		.50	1.00		12/31/88	11.65

CHECK# 011308

DONALD R. FERRELL and ASSOCIATES, INC.

8585 NORTH STEMMONS FREEWAY
SUITE N-707
DALLAS, TEXAS 75247
(214) 634-7086 METRO (214) 263-2902

TEXAS COMMERCE BANK - ARLINGTON
P.O. Box 280
Arlington, Texas 76004

NO. 011308
CHECK NO
011309

DATE 12/31/88

AMOUNT *******11.65

ELEVEN DOLLARS 65 CENTS

PAY TO THE ORDER OF MICHAEL RUTLEDGE

NON-NEGOTIABLE

AUTHORIZED SIGNATURE

⑈011308⑈ ⑆111921861⑆ ⑈3 33.44⑈

NO. 011309

289

NO. 008433

DONALD R. FERRELL and ASSOCIATES, INC. DALLAS, TEXAS JASON WALLACE

EMP	DPT	REG	COMM	MISC	TOT.EARN
025	025		6.50		[illegible]

SOC.SEC.NO.
025-17-0000

PAY-ENDING
2/27/88

RESERVE	INSURANCE	PAYROLL FEE	PROMOTION EXPENSE	ADVANCE	TOTAL-DED
.65	.50				1.15

FED.W/H	FICA	TOT.TAX

YTD-GROSS	YTD-FWT	YTD-INS	YTD-RESRV	YTD-FICA	CHECK-DT	NET-PAY
6.50					2/27/88	5.35

CHECK# 008433

DONALD R. FERRELL and ASSOCIATES, INC.

8585 NORTH STEMMONS FREEWAY
SUITE N-707
DALLAS, TEXAS 75247
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Mr. **Lantos**. Mr. Ferrell, do these children do their soliciting work alone or in pairs?

Mr. **Ferrell**. Again, that varies.

Mr. **Lantos**. Sometimes they do it alone?

Mr. **Ferrell**. Right, that's correct.

Mr. **Lantos**. And they work throughout the year?

Mr. **Ferrell**. That's correct.

Mr. **Lantos**. Now, what time does it get dark in your part of the country?

Mr. **Ferrell**. Now, it is 9 o'clock.

Mr. **Lantos**. And how about in January?

Mr. **Ferrell**. 5:30, a quarter to 6.

Mr. **Lantos**. So during part of the year these children are out at night in dark during their entire work period; is that correct?

Mr. **Ferrell**. That's correct.

Mr. **Lantos**. Do you think it is safe to have children in strange neighborhoods alone knocking on doors in the dark?

Mr. **Ferrell**. Again, I can only speak for my being. And I have been knocking doors for 30 years.

Again, I think it is our responsibility as crew managers to determine where we work, what areas we do work. And I feel very comfortable in working the areas that I work after dark. We never work inner city areas or places like that. We are usually in the suburbs in the nicer neighborhoods.

A lot of that is controlled by the newspaper itself, where we work and where we can't work.

Mr. **Lantos**. Are you aware of the limitations in the Fair Labor Standards Act pertaining to the age and hours of work permitted to children?

Mr. **Ferrell**. Yes, sir.

Mr. **Lantos**. Have you been in compliance with those limitations?

Mr. **Ferrell**. Well, again, you know, I treat the solicitors as independent contractors and the crew managers as independent——

Mr. **Lantos**. Describe for me a crew chief. What is your typical crew chief?

Mr. **Ferrell**. Myself——

Mr. **Lantos**. Not yourself. I know you did that. Who would be the youngest crew chief you would have?

Mr. **Ferrell**. Again, we have always said you have to be 18 years of age.

Mr. **Lantos**. So you have crew chiefs who are 18?

Mr. **Ferrell**. Now we don't. We've had them as young as 18. Most of them range between the ages of 25 to 35 years of age.

Mr. **Lantos**. They do their own hiring?

Mr. **Ferrell**. They contract with the kids themselves, yes.

Mr. **Lantos**. They contract with the kids themselves. Can the kids contract on their own or do they have to have their parent's permission?

Mr. **Ferrell**. They have to have a consent form signed by their parents.

Mr. **Lantos**. Now, please correct me if I am wrong. In the March enforcement sweep of the Department of Labor, your company was charged with a tremendous number of violations: 57 violations for recordkeeping irregularities, 298 violations involving children under 14, one violation involving hazardous work, 46 violations of working excessive hours for 15 year old's and 94 violations with respect to 14 year old's working excessive hours. The total number of minor children involved was 289. That is the Department of Labor charge.

How many children did you have working for you during the period of that sweep in March?

Mr. **Ferrell**. During that—I think the investigation went on approximately 2 weeks. During that 2-week period it would vary between 40 and 50.

Mr. **Lantos**. So these are multiple violations.

Mr. **Ferrell**. No.

What the Labor Department did is they came in and asked to see the contracts of all the kids, solicitors who'd, we'd contracted with over the past 2 years. And I provided that information to the Labor Department.

Those 289 violations, that is what they are, that is how many kids they have, solicitors that have gone through my program in the past 2 years.

Mr. **Lantos**. That covers a 2-year period?

Mr. **Ferrell**. Yes, sir.

Mr. **Lantos**. During that 2-year period, how many children were working for you?

Mr. **Ferrell**. It could be——

Mr. **Lantos**. Approximately.

Mr. **Ferrell**. It could be, say, 500.

Mr. **Lantos**. So you might have had 500 children in your employ in a 2-year period?

Mr. **Ferrell**. And they only picked out the ones that were 16 and under. The ones 16, 17, 18, they did not do anything with those.

Mr. **Lantos**. But that means that of the 500 children who worked for you, in 289 cases there were alleged child labor law violations, isn't that correct?

Mr. **Ferrell**. Yes, sir.

Mr. **Lantos**. That is a mind-boggling proportion. That means that more than half of the children working for you and practically all of the children who were younger children somehow worked with some violation.

You were fined $153,000, which for a small business is a staggering amount.

Mr. **Ferrell**. Yes, sir.

Mr. **Lantos**. What is your annual business volume?

Mr. **Ferrell**. Approximately $700,000 in gross billings.

Mr. **Lantos**. So this would about to about 20 percent of your gross billings?

Mr. **Ferrell**. Yes, sir.

Mr. **Lantos**. Do you feel that the Department of Labor was unreasonable in making these citations?

Mr. **Ferrell**. The only job I have had in my entire life has been in the newspaper industry. Ninety percent of the newspapers in the United States use crewing, exactly what I am doing. It has always been my understanding that they are independent contractors and therefore I did not come under the Federal labor board as well as the child labor laws.

Mr. **Lantos**. So what your contention is, sir, and correct me if I am not phrasing this accurately, is that in a sense you are not really disputing the facts of the allegations, you are merely disputing the locus of the responsibility. You feel that it was the "crew chief" who violated the labor laws, not you.

You are welcome to consult with counsel.

Mr. **Ferrell**. Again, we do not operate outside of the Dallas market. So we are not outside the State of Texas. It is my understanding that Federal law does not cover employees working only within one State. That has always been my understanding.

Mr. **Lantos**. Mr. Ferrell, this is not a judicial proceeding.

Mr. **Ferrell**. I understand that.

Mr. **Lantos**. We are merely an oversight subcommittee of the Congress ascertaining facts. As I understand your testimony which has been very straight forward and very clear, and I want to thank you for it, you are not disputing the facts of the Department of Labor claim. You merely are disputing whether it is you who hired these children or your crew chief's and whether this comes under Federal labor law, isn't that correct? The facts are not in dispute.

Mr. **Ferrell**. Again, employees engaged in interstate commerce are covered. I am not. I should not be covered by interstate commerce since I work strictly in the city of Dallas. That is as far as I go, right there.

Mr. **Lantos**. Mr. Ferrell, that will be an issue that will be adjudicated in the proper tribunal. I am not interested in whether you are in interstate commerce or not. I am asking, do you dispute the facts of the children working under the circumstances which brought the Labor Department citation?

Mr. **Ferrell**. Again, for 35 years——

Mr. **Lantos**. I understand that. Please answer the question. I have been enormously patient with you. My patience is beginning to run out. It is irrelevant if you have been in business for 35 years or 350 years.

I will rephrase the question and I am asking you to answer the question. The Department of Labor alleges that 289 children were in your employ under some labor law violation during the course of the last 2 years. These violations according to the Department of Labor related to recordkeeping violations, children under 14, hazardous work, other violations. You do not dispute the facts, do you?

Mr. **Ferrell**. The facts are in dispute as far as I am concerned.

Mr. **Lantos**. Tell me in what sense are they in dispute?

Mr. **Ferrell**. The child labor requirements where it says employment standards. The key word is "employment." I never intended and never have treated anyone as an employee. I have always worked on the assumption——

Mr. **Lantos**. I understand that they are independent contractors. But let's leave the status aside.

Mr. **Ferrell**. OK.

Mr. **Lantos**. Let's assume they are independent contractors to make you feel better. For purposes of the argument, I am going to call these children independent contractors.

Mr. **Ferrell**. OK.

Mr. **Lantos**. These children did work for you, did they not?

Mr. **Ferrell**. They contracted with the independent contractors that I have.

Mr. **Lantos**. You put a buffer between yourself and the child whom you call the crew chief?

Mr. **Ferrell**. I contract with the crew managers.

Mr. **Lantos**. I got it. I have respect for your intelligence, have respect for mine. I understand exactly what you do. That is one of the problems. You established a barrier between yourself and the child. You call this barrier the crew chief and you had the crew chief hire the child thereby exonerating yourself of any responsibility. Is that correct?

Mr. **Ferrell**. I don't want to offend you but again I treated the crew managers as independent contractors and they treated the solicitors as independent contractors so therefore I——

Mr. **Lantos**. How do you visualize a 10 year old being an independent contractor? I have 12 grandchildren and I have trouble visualizing one of my 10 year olds as being an independent contractor. I visualize him as a child.

We can call him a rear admiral but that doesn't make him a rear admiral.

Mr. **Ferrell**. I apologize for the 10-year-old children. I did not intend for them to work and I didn't know they did until the Department of Labor brought this to my attention.

Mr. **Lantos**. Well, we have 13 year olds, too.

Mr. **Ferrell**. I have a 13-year-old son.

Mr. **Lantos**. I cannot look at that young boy as an independent contractor. He is a 13-year-old boy. We can label him an independent contractor. Let's for the sake of argument do that. You don't dispute the facts that these people worked; that the hours they worked were excessive according to the Fair Labor Standards Act. You are saying that the Fair Labor Standards Act doesn't apply to them because they are independent contractors.

But you do not dispute the fact that they worked the number of hours the Department of Labor said they worked.

Mr. **Ferrell**. I do dispute that. I know the Labor Department did not contact all 289 of those children. Instead, I was told that they contacted a couple. Again, I have never had a complaint in all my years with the Dallas Times-Herald where we were knocking on doors past 9 p.m.

If the child got home at 9:30, I think the Labor Department took the assumption that the child was out there working at 9:30 at night so therefore they put 9:30 on all the violations. I disagree with that.

Mr. **Lantos**. The law says they cannot work after 7.

Mr. **Ferrell**. Yes, sir as employees.

Mr. **Lantos**. But as independent contractors, the sky is the limit.

Mr. Shirk, I very much appreciated your public apology at the beginning of your statement. You have a relatively small fine of $4,500. Are you disputing that?

Mr. **Shirk**. No, sir.

Mr. **Lantos**. You have paid it or intend to pay it?

Mr. **Shirk**. I have paid it, sir.

Mr. Lantos. It is your intention to be in full compliance with all child labor laws in the future?

Mr. Shirk. Yes, sir.

Mr. Lantos. The chief of staff has some questions.

Mr. Weisberg. Mr. Ferrell, on page 2 you say crew members receive substantial commissions for the orders they write. Exactly how much do they make for each subscription sold?

Mr. Ferrell. For the crew member? Four to fifteen dollars per subscription.

Mr. Weisberg. How much do you receive on average per subscription? How much goes to the crew manager and how much goes to the individual crew member who does the actual banging on doors?

Mr. Ferrell. Do you want a breakdown of the pay?

Mr. Weisberg. Yes.

Mr. Ferrell. The maximum that would go to a crew manager is, low would be $10. The high would be approximately $27.

Mr. Weisberg. How much again goes to the crew member?

Mr. Ferrell. From $4 to $15.

Mr. Weisberg. How much goes to you, minimal and maximum?

Mr. Ferrell. Approximately $4.50 low to $8 high.

Mr. Weisberg. Why is this solicitation done door to door and not by phone today?

Mr. Ferrell. Again, probably 98 percent of the newspapers today in the United States use some type of telemarketing. There is also the door knocking.

Mr. Weisberg. But isn't it to your advantage from the door knocking perspective, the younger the child, the more sympathetic the individual might be to buying a subscription from that individual?

I have trouble understanding why an individual who is interested in a subscription to a newspaper doesn't call the Washington Post and get a subscription. I think it is different when you have a 14 or 10 or 11 year knocking on your door at 9 o'clock. You might take it not because you need it but out of sympathy.

That is the problem the subcommittee is concerned with, exploiting children for financial gain. Do you care to comment on that?

Mr. Ferrell. Again, speaking for the newspaper industry, I am sure they would love to eliminate door knocking and telemarketing. They wish everyone would call up and order a subscription to the newspapers. But the newspapers throughout the United States are suffering a decline in circulation. That is why they have to have every resource.

Mr. Weisberg. But you find you do better having people door to door than you would making telephone calls, correct?

Mr. Ferrell. My forte has never been in telemarketing. The Times-Herald has an independent contractor for telemarketing. My expertise has always been in the door crewing.

Mr. Weisberg. Thank you, Mr. Chairman.

Mr. Lantos. A final question. Assuming that the Department of Labor is sustained in this, and you will have to pay a $153,000 fine, will you change your practices and consider these children not as independent contractors?

Mr. Ferrell. I have already changed my operation.

Mr. **Lantos**. Tell me about it.

Mr. **Ferrell**. Immediately when I received the amount of civil penalties from the Labor Department, we did tell the Labor Department, we asked them exactly what they wanted and they told us. I think there were four points. We agreed in writing and they have a copy of that.

We also wrote a memorandum to all the crew managers stating that we would no longer contract with them if they used, if they contracted with any more 14- and 15-year-old children, period. We had already eliminated the 12 and 13's. They have not existed for 6 months. We do have 14 and 15.

We wrote a memorandum to each crew manager and made him sign a letter saying we would not contract with any crew manager who contracted with 14- and 15-year-old solicitors. The Labor Department also has a copy of that.

Mr. **Lantos**. The Department of Labor is now satisfied with your new policies?

Mr. **Ferrell**. Well, let me put it this way: We gave them the letter saying we would comply. We gave them the memorandum that we were changing the way we were working and then we got the fine.

Mr. **Lantos**. You got the fine not because you were planning to do everything according to their request but because you have not done it in the past.

Mr. **Ferrell**. Again, there were negotiations. There would be two penalties, one if I comply with the law and another penalty if I did not comply with the law. So I agreed to comply and I got the lower of the penalties.

Mr. **Lantos**. That was a wise move.

Let me thank both of you gentlemen. I think in the future it will be very important that you in fact fully comply with all child labor laws of this land. Thank you very much.

Mr. **Shirk**. Thank you. I appreciate it very much.

Mr. **Lantos**. The final witness is the distinguished Assistant Secretary of Labor for Employment Standards. Mr. William Brooks. Mr. Brooks, may I ask you to raise your right hand?

[Witness sworn.]

Mr. **Lantos**. Mr. Secretary, the subcommittee is pleased to welcome you again. We have enjoyed working with you in the past. We look forward to doing so for a long time to come. Your prepared statement will be entered into the record in its entirety. You may proceed in any way you choose.

STATEMENT OF WILLIAM C. BROOKS, ASSISTANT SECRETARY FOR LABOR FOR EMPLOYMENT STANDARDS

Mr. **Brooks**. Mr. Chairman, thank you for the opportunity to be here again to discuss the serious and complex problem of increased child labor violations, which is of great concern to this subcommittee, Secretary Dole, and myself.

As you know, 2 days ago the Department conducted a 1-day child labor strike force, our second such child labor enforcement initiative. I understand that our full complement of wage and hour compliance officers nationwide initiated about 2,000 investigations.

While the results of this strike force are not yet available, we will be able to report them soon. In addition, we plan to publicly release the names of those firms found in violation.

When I appeared before the subcommittee last March, I described the Department of Labor's five-part action plan to address the illegal employment of children. The overall plan is based on a delicate balance of applying effective sanctions against offenders, but without discouraging other employers from legally hiring youngsters. Targeted, coordinated enforcement—like that represented by our two child labor strike forces—is an important part of the plan. My purpose today is to bring the subcommittee up to date on our progress in implementing the plan. I also believe that this action plan addresses many of the issues raised in the bill which you have cosponsored.

In addressing the problem of child labor, the Department is committed to communicating a clear message to the three principal players—employers, parents, and educators—that our first priority must be the education, health, and safety of America's working children. However, Secretary Dole and I strongly believe that working teenagers should have opportunities for positive employment experience within safe environments and do not want our firm and fair enforcement to in any way suggest that we seek to dampen opportunities for such important formative experiences. I am proud of our achievements in the enforcement area under the leadership of Secretary Dole.

As part of our commitment to stronger enforcement, the Employment Standards Administration, ESA, just completed a 3-day national conference last week. This was attended by field and national officials of the two ESA enforcement agencies, the Wage and Hour Division and the Office of Federal Contract Compliance Programs. The Solicitor of Labor and a number of his key attorneys also participated as did other top Department of Labor officials. Against a background of vigorous and candid dialogue and debate between all parties, changes were proposed to empower all levels of ESA to more effectively enforce our child labor laws as well as all the other labor standards laws ESA is charged to administer. These suggested changes are being intensively reviewed right now. By the end of this month, the Secretary and I will decide how to act on all of these recommendations.

Our enforcement conference was part of a larger department-wide enforcement review undertaken by the Secretary. She has appointed Deputy Secretary DeArment to head up a task force that will recommend a broad spectrum of actions to improve enforcement throughout the Department.

Mr. Chairman, in March when I appeared before this subcommittee, I informed you that—as part of our overall strategy—we would administratively increase penalties for offenders while evaluating the need for still greater increases through regulation or legislation. We are taking both of these steps. We now assess penalties for each type of violation for each minor. We estimate that more than $5 million will be assessed in penalties resulting from the March strike force. We believe that employers, including the many who were fined more than $5,000 or $10,000 and, in a few cases more than $100,000, have gotten the message.

Two months ago, I also promised the subcommittee that the Department would develop proposed regulatory changes to Hazardous Occupations [H.O.] Order No. 10 to broaden coverage of minors operating meat slicers in restaurants; to H.O. No. 2, to cover 16 and 17 year old school bus drivers; and to H.O. No. 12, to broaden coverage of minors operating paper balers. This we have done, and the proposal should be published shortly. The Department is committed to an expeditious review of the other existing hazardous occupation orders.

I also indicated that, at the Secretary's direction, we would establish an intradepartmental task force to ensure that the Department's approach to formulating and enforcing our regulations is more effective. I am pleased to report that the task force is operational, having met most recently on improving and coordinating the collection and analysis of employer and other data on children's work-related illnesses and injuries.

Finally, I stated to you in March that the Department would vigorously pursue court injunctions and litigation where there is clear evidence of egregious employer recidivism, employer unwillingness to take the steps necessary to assure future compliance with the Fair Labor Standards Act, or particularly flagrant violation. We have followed through on that commitment, and have and are now referring appropriate cases to the Solicitor's Office for consideration of injunctive action.

Mr. Chairman, I believe that these actions address many of the issues squarely posed by your bill, including the need for improved data collection, updated hazardous occupation orders, improved agency coordination, more appropriate balance between school and work, and increased penalties.

We agree that change is needed in these areas. Where we may disagree is how to bring about such change. We believe, that where possible, these changes should be made administratively.

Finally, I would like to address a matter that has been of concern to this subcommittee, as it is to me: Whether we have the resources to do the job. I view administration of the laws Congress has given us, and use of the resources that the American taxpayer has provided for that administration, as a matter of stewardship. That is, it is Secretary Dole's responsibility and correspondingly my own to do the best possible job with the resources we have been given.

The Secretary and I believe an important part of stewardship is knowing when to ask for more. If we come to decide that the public trust requires more—whether enhanced statutory provisions for civil and criminal penalties, or more compliance officers—we won't be afraid or bashful to ask for more. You have witnessed that attitude in connection with the department's OSHA and pension programs.

In closing, I am sorry Congressman Pease has departed but he indicated that we sit and wait for at least five complaints before we go out to do an investigation of the child labor laws. That is not the case. Child labor enforcement is not complaint driven at all. In fact, it is going where we want to go and that is to focus and be directed in the way we deal with investigations.

So we do not sit and wait to accumulate complaints before we go out.

Mr. Chairman, this concludes my remarks and I will be happy to answer any questions that you or members of your subcommittee may have.

[The prepared statement of Mr. Brooks follows:]

STATEMENT OF
WILLIAM C. BROOKS
ASSISTANT SECRETARY FOR
EMPLOYMENT STANDARDS
BEFORE THE
EMPLOYMENT AND HOUSING SUBCOMMITTEE
OF THE COMMITTEE ON GOVERNMENT OPERATIONS
UNITED STATE HOUSE OF REPRESENTATIVES

June 8, 1990

Mr. Chairman and Members of the Subcommittee:

I appreciate the opportunity to appear before you again to discuss the serious and complex problem of increased child labor violations. When I appeared before the Subcommittee in March of this year, I described the Department of Labor's five-part action plan to address the illegal employment of children. My purpose today is to bring the Subcommittee up to date on our progress in implementing that plan. I believe that our action plan addresses many of the issues raised in the bill which you have co-sponsored.

In addressing the problem of child labor, the Department is committed to communicating a clear message to the three principal players -- employers, parents, and educators -- that our first priority must be the health, safety and education of America's working children. However, Secretary Dole and I strongly believe that working teenagers should have opportunities for positive work experience in a safe environment and do not want our firm and fair enforcement to in any way suggest that we seek to dampen opportunities for such important formative experiences.

Vigorous enforcement of the law is the cornerstone of our plan. As you know, at Secretary Dole's direction, the Employment Standards Administration on March 12-14 undertook a nationwide enforcement action, or strike force, directed at child labor violators. When I testified last March, the strike force returns had not yet come in. As of June 4, just over 4,000 firms have been investigated. Violations affecting children were found in roughly half of these workplaces. We have been providing you with the names of violators as we complete our investigations and assess fines. As of May 23, we have assessed penalties for more than 1,100 businesses. The violators whose names have been made public include only those where our investigations are completed and reported to your Subcommittee as of that date. Some cases are still being processed.

The important focus of our investigations are the children who have been found to be illegally employed.

Here is a profile of these youngsters:

- More than 2,250 were 14- to 17-year old teenagers in hazardous occupations.
- About 500 were younger than 14, thus below the legal age to work outside of agriculture.
- The rest, more than 13,000, were 14- and 15-year olds working later or longer than is legally allowed during the school week.

Among the violations found, 37 involved injuries or disabilities. No deaths caused by child labor were reported from these strike force investigations. In 367 of the investigations, the employer had failed to maintain records of the minors' date of birth.

Those firms cited so far as being in violation are located in 47 States and the District of Columbia. They can appeal the Department's findings, seeking to have them overturned, or pay the fine assessed.

Secretary Dole and I believe that these results support our decision to use strike forces, and that the planning that we did was critical in shaping an effective response to this national problem. A highly visible message has been given not only to employers but to schools, children and parents. Our message is this: Employment experience can be very helpful in the development of teenagers. However, violations of the child labor laws, whether motivated by greed or by ignorance, will not be tolerated.

At the conclusion of my last appearance before this Subcommittee, we agreed that the nationwide publicity on this strike force would multiply the effectiveness of our enforcement actions, by informing children and parents of their rights and reinforcing for some employers, and informing others, of those practices which are unlawful. It appears to us that this multiplier effect has worked. Publicity about the strike force has and will serve as a deterrent to employers who have been made more fully aware of the requirements of the law and of potential fines, and who also do not wish their violations publicized. As a result of the strike force, we are already seeing a dramatic increase in requests by employers for guidance in complying with the law.

We also informed you that we would administratively increase penalties for offenders while evaluating the need for still greater increases through regulation or legislation. We are taking both of these steps.

We have already modified our procedure for the assessment of civil money penalties so that we no longer limit assessments to a $1,000 statutory maximum *per minor*, which previously had been the policy even where there were multiple violations per minor. We now assess penalties for *each type of violation* for each minor. This change was accomplished without the need to amend any regulations. Overall, we estimate that about $5 million will be assessed in strike force penalties; to date, more than $2.9 million has been assessed.

Using our first strike force as a base of experience, we are now conducting a targeted enforcement initiative in the garment industry, and are also planning a farm labor strike force. We plan to conduct additional child labor strike force actions this year in a continuing effort to evaluate the deterrent effect of our overall strategy and action plan. By deterrent effect, I mean the effect that our combination of high-visibility enforcement and increased fines have on the level of employer compliance.

As I mentioned, on May 11, we initiated a targeted enforcement program in the garment industry in New York. While the primary purpose of this effort is to investigate compliance with the Fair Labor Standards Act (FLSA) generally in this industry, appropriate emphasis is also being given to detecting any child labor and homework violations. We are also coordinating this effort with the Occupational Safety and Health Administration (OSHA) and the New York State Department of Labor. Through the end of May, we initiated 131 investigations. These investigations are ongoing and the results have not been finalized.

Two months ago, before this Subcommittee, I also promised that the Department would develop proposed regulatory changes to certain of the Hazardous Occupations Orders, such as elimination of the exception in HO 2 to permit teenagers to drive school buses. This we have done, and the proposal should be published shortly.

The Department is committed to continuing to review other existing hazardous orders, paying heed to the views of public and private organizations and individuals, including the Child Labor Advisory Committee created by the Department, whose time and efforts, I will again say, are much appreciated.

I also indicated that, at the Secretary's direction, we would establish an intradepartmental task force to ensure that the Department's approach to formulating and enforcing our regulations is effective. I am pleased to report that the task force is now operational, having met most recently on improving and coordinating the collection and analysis of employer and other data on children's work-related illness and injuries. The task force is chaired by the Employment Standards Administration (ESA), and includes representatives of the Occupational Safety and Health Administration (OSHA), the Solicitor of Labor, the Bureau of Labor Statistics and others. A key product has already been a Memorandum of Understanding between ESA and OSHA to cross-train our respective staffs, and to identify and refer violations of our respective statutes, including health and safety violations involving our working youngsters. The task force will also focus this year on reviewing the exposure of minors to chemicals, and will advise whether the hazardous occupations orders should continue to be reviewed one by one, or whether a more generic approach is feasible that better accommodates fast-changing workplace technology and conditions.

Finally, I told you in March that the Department would vigorously pursue court injunctions and litigation where there is clear evidence of egregious employer recidivism, employer unwillingness to take the steps necessary to assure future compliance with the FLSA, or particularly flagrant violations. We have followed through on that commitment. We have and are referring appropriate cases to the Solicitor's Office for consideration of injunctive action. Other potential injunction or litigation activity may emerge as we finish reviewing all strike force cases.

Mr. Chairman, let me now relate these accomplishments and new undertakings at the Department of Labor to your proposed legislation. As I outlined the major steps we have taken, I am sure that it was clear they address many of the issues squarely posed by your bill. These issues include the need for improved data collection, updated hazardous occupation orders, improved agency coordination, more appropriate balance between school and work, and increased penalties.

I believe that we agree that change is needed in these areas. Where we may disagree is how to bring about such change. We believe, where possible, these changes should be made administratively.

I agree with the need for changes in outdated hazardous occupation orders. We will soon propose the first of such changes and we will continue to work on further changes.

Your bill would sharply increase fines and prison terms for criminal violators, as well as impose other penalties. The bill raises the right questions in the area of penalties: Should civil money penalties be increased? Should there be tiers of penalties based on the severity of the violation? When should criminal penalties be involved? We too are asking these questions and actively reviewing the need for increased penalties, through legislation or regulation. We will be presenting our views on this in the very near future.

In making a final decision on any penalty changes, I am mindful -- as I am sure you are, Mr. Chairman -- that a delicate balance must be struck. We must apply effective sanctions against offenders, and flagrant offenders severely, without discouraging other employers from legally hiring youngsters.

Your bill would legislate various types of intra-agency and interagency coordination. I wholeheartedly support closer coordination, but I believe the ESA/OSHA agreement will go a long way toward addressing this issue. The Task Force and the Department's agreements to share enforcement information with State Departments of Labor will also be utilized fully in this regard.

We have also taken a major step in moving toward more effective enforcement with a National conference we held last week. This was attended by field and national officials in the two ESA enforcement agencies, the Wage and Hour Division and the Office of Federal Contract Compliance Programs. The Solicitor of Labor and a number of his key attorneys also participated. Against a background of vigorous and candid dialogue and debate between all parties, changes were proposed to empower all levels of ESA to more effectively enforce child labor and other ESA labor standards laws. These suggested changes are being intensively reviewed right now. By the end of this month, the Secretary and I will decide how to act on all of these recommendations.

This initiative is part of a larger Department-wide enforcement review undertaken by the Secretary. She has appointed Deputy Secretary DeArment to head up a Task Force that will recommend a spectrum of actions to improve enforcement across the Department. These broader initiatives, when they are finalized, will reinforce the specific ESA actions I have described in the child labor area.

Mr. Chairman, this concludes my prepared remarks. I will be happy to answer any questions that members of the Subcommittee may have.

Mr. LANTOS. Thank you very much, Mr. Secretary. You mentioned the Child Labor Advisory Committee and its recommendations for revising hazardous occupation orders. You stated in February that the Department agreed with some of these proposals.

Can you tell us the current status of these changes? Have you sent them to OMB? Has OMB responded? How soon can the subcommittee anticipate some action?

Mr. BROOKS. Yes, I indicated in my remarks the three changes that I mentioned in my previous testimony on the paper balers, meat slicers, and bus drivers. Those are hazardous occupations. They will be published shortly. I can't quantify shortly. They are in the process. All departmental approvals have been obtained.

The other hazardous orders, the other 14 are being reviewed by ESA along with OSHA, and others in our task force. It has met and we are beginning to look at those. Not only those, Mr. Chairman. We are also looking at those occupations that have come about since the 17 H.O.'s were first written. We want to make sure that all of the occupations that are out there today, that we have a good look at them and make sure we don't have children working in the wrong places.

Mr. LANTOS. In preparation for this hearing, Mr. Secretary, two of my staff members spent the day with the New York apparel task force visiting the garment sweat shops. This specialized group of compliance officers has an outstanding record. Is there a crisis in the garment industry, from your point of view, because you are devoting resources to this area?

Mr. BROOKS. I can't assess that at this point. What I have done, I have expended in the last 3 weeks, extensive effort in that area. I have had people dedicated to looking just at that area, in fact, at the same time that your staff members were there. I am disappointed, frankly, that my people have not been able to find children illegally employed. We are finding all other kinds of violations. There are a couple of things we have done.

Mr. Jeffrey Newman, who I was on a television show with, indicated I would come to see him. He came to my office. We had a discussion. I want to work with him to find out how we can find the children illegally employed. I have asked my people in the New York region to meet with him this week, and my Deputy Assistant Secretary up there will also meet with him this week. I want all the intelligence they have. The people who run the New York operations that your staff members went out with, we had discussions with them this week. In 2 weeks, we are going to do some joint investigations with them. We are going to go out with them jointly.

Let me tell you. We are going to become innovative. We have got to change the ways we do things. If they are out there, we are going to find them. We are going to talk with anybody who knows where they are. In fact, I was up in the garment district looking for them. You need to go without any publicity at all.

Secretary Dole went in unannounced. No one knew who she was. We are trying to find out what the total effort is up there. That is what this is all about. We have to—and I am not going to be satisfied until I can get a better handle on it.

Mr. **Lantos**. Mr. Secretary, I personally am very pleased with the sweeps, but I do have a question, two questions. Do I have to schedule a hearing before you have a sweep?

Mr. **Brooks**. Mr. Chairman, that is very unfortunate——

Mr. **Lantos**. No.

Mr. **Brooks**. Seriously, that is very unfortunate. When I heard that you were going to have a hearing on June 8, I immediately had my staff members come up to talk to your staff members because we already planned to have——

Mr. **Lantos**. I am very happy.

Mr. **Brooks** [continuing]. To have one this week, and we couldn't do it. Let me say I will commit to you and I will come and see you and let you know when the next one is so you don't have a hearing conflict.

Mr. **Lantos**. I think it is wonderful.

Let me ask you, however, in a more serious vein, these sweeps, obviously, are effective, but they are no substitute for ongoing year round compliance, which has clearly been pathetically inadequate in the past. My question is, can we look forward to a significant step-up in the ongoing day in, day out compliance effort along with these periodic sweeps?

Mr. **Brooks**. I think you can. I think at our 3-day conference last week we had special sessions on how to be more vigilant in child labor as we move along in between the sweeps.

As I have looked at what is going on, I really sense that we have not had enough people who dedicate themselves, think about nothing 24 hours a day other than child labor. One of the things I am thinking about is to make sure that in the near future, perhaps, I have a person in each one of our 10 regions who is dedicated, who thinks about nothing but child labor, and who can help direct that effort on an ongoing basis.

Mr. **Lantos**. That would be a good move.

My final question is I realize that this week's sweep is too recent for you to have any statistics. But you are a wise man and you have some gut feelings. Did you find violations in the same order of magnitude that the March sweep yielded?

Mr. **Brooks**. I have, frankly, no idea of exactly how many violations we had, except we had some 2,000 violations. We had 3,900 or so investigations in 3 days. Hopefully, in a magnitude of order, it would be fewer than we found in the 3 days in March. So, I would suspect that—and this is just——

Mr. **Lantos**. A ball park?

Mr. **Brooks**. Yes, a ball park. About a half of—let me say 6,000 or 7,000 kids, probably. We had 15,000. That is just, you know—I know you are going to hold me to it.

Mr. **Lantos**. No, I won't.

Mr. **Brooks**. That is a gut feeling I have. I have no sense of what went on out there, except we were going to smaller cities.

The other part of that is, it is going to be hard to compare the strike force because we are dealing with apples and oranges. We dedicated a certain number of people to the sweat shop garment district in five cities: New York, Chicago, Miami, Dallas, and Los Angeles. So we had people dedicated strictly to looking at sweat shops.

On the other hand, we had a group of people who strictly looked at migrant camps. A lot of harvesting isn't going on now. In the years there was harvesting, we had people dedicated to that. The numbers may not be easily comparable.

Mr. **Lantos**. With respect to the March sweep, did we go over the data on that yet? Are you still working on it?

Mr. **Brooks**. We are still working on it.

Mr. **Lantos**. How much longer will it take to have you publish all the results of the March sweep?

Mr. **Brooks**. It is hard for me to speculate. I would say in early fall.

What has happened to us, the ones that are—you see they are coming in at a slower pace now because of what has happened, the investigations are tougher. There are tougher issues to deal with, obviously. We are working as hard as we can.

Mr. **Lantos**. All right.

Well, before we close, may I just repeat my request that the names of this last sweep be also made public as soon as they become available?

Mr. **Brooks**. We are going to follow the same routine we have on this one, exactly the same routine.

Mr. **Lantos**. Because this is probably one of the most useful things we can do on behalf of the Nation's children, is to publicize child labor violations.

Mr. **Brooks**. Right.

Mr. **Lantos**. Mr. Secretary, I want to thank you very much. I think today we chopped a bit of wood. We look forward to seeing you again.

Mr. **Brooks**. Mr. Chairman, I really would like to thank you, Secretary Dole and I, for your support in this effort.

Mr. **Lantos**. You have got it.

This hearing is adjourned.

[Whereupon, at 2:38 p.m., the subcommittee adjourned, to reconvene subject to the call of the Chair.]

APPENDIX

MATERIAL SUBMITTED FOR THE RECORD

THE MOUNT SINAI MEDICAL CENTER
ONE GUSTAVE L. LEVY PLACE • NEW YORK, NY 10029-6574

Mount Sinai School of Medicine • The Mount Sinai Hospital

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April 2, 1990

Mr. Stuart Weisberg
Staff Director
Subcommittee on Employment and Housing
Committee on Government Operations
U.S. House of Representatives
Rayburn House Office Building, Room B-349-A
Washington, DC 20515

Dear Mr. Weisberg:

Again, I would like to extend my thanks to Congressman Lantos, to you, and to Joy Simonson for having invited me and the American Academy of Pediatrics to participate in the recent hearing on child labor. This was a very important event, and in my opinion the hearing and its attendant publicity had a very substantial impact across the nation in heightening public awareness of the health hazards of child labor.

Enclosed please find my corrected remarks. Also enclosed, please find a copy of testimony on the hazards to children of industrial homework which I presented a year ago at a U.S. Department of Labor field hearing on behalf of the American Academy of Pediatrics. I would like to request that this testimony be entered into the hearing record.

Thank you again.

Sincerely,

Philip J. Landrigan, M.D.

PJL:ss
Enc.
cc: Mr. Grant H. Newson, AAP, Washington

TESTIMONY

THE HAZARDS TO CHILDREN OF INDUSTRIAL HOMEWORK

Philip J. Landrigan, M.D., M.Sc., F.A.A.P.
Professor of Community Medicine and Pediatrics
Mount Sinai School of Medicine
New York, New York

Before the

United States Department of Labor

New York City

March 29, 1989

ENVIRONMENTAL AND OCCUPATIONAL MEDICINE
DEPARTMENT OF COMMUNITY MEDICINE
MOUNT SINAI SCHOOL OF MEDICINE OF THE CITY UNIVERSITY OF NEW YORK
NEW YORK, NY 10029

1 Philip J. Landrigan, M.D.

Good morning. My name is Philip J. Landrigan, M.D. I am a pediatrician and an occupational physician. I am Professor of Community Medicine and also Professor of Pediatrics at the Mount Sinai School of Medicine in New York City, and Director of the Division of Environmental and Occupational Medicine. Prior to my arrival at Mount Sinai four years ago, I served as Director of the Division of Surveillance, Hazard Evaluations and Field Studies of the National Institute for Occupational Safety and Health (NIOSH), and I was Chairman of the Committee on Environmental Hazards of the American Academy of Pediatrics. A copy of my curriculum vitae is attached. I am appearing before you today to discuss the hazards to the health of children which I consider to be the inevitable consequence of industrial homework.

The hazards to children associated with industrial homework fall into two categories:

(1) Toxic hazards. These hazards result either directly from the exposure of illegal child homeworkers to toxic materials with which they are working, or indirectly from the passive, involuntary exposure of young children to toxic materials with which other family members are working in the home environment; and

(2) The hazards of illegal work. These problems consist of the chronic fatigue, the blighted childhoods, the lost education and the perpetuation of the cycle of family poverty which result from the employment of children in industrial homework.

Toxic Hazards. My first encounter with the toxic hazards of industrial homework occurred five years ago when I was still with NIOSH, stationed in Cincinnati, Ohio. In this episode, which occurred in 1984, the initiating event was the arrival of a sixty-seven year old woman at a local emergency room. She presented with symptoms of severe shortness of breath, cough, and a feeling of "choking to death." A copy of the report describing this event entitled "Occupational Asthma in a Home Pieceworker," which was published in December 1986 in the Archives of Environmental Health is appended to my testimony.

On examination, we learned that this patient had been in her usual state of health, until nine days prior to her arrival at the emergency room. At that time, she had engaged for the first time in the process of "dipping" polyurethane coated wire into solder. She had performed this work in her home, a mobile home located in the country outside of Cincinnati. At the end of a two-hour period in which she dipped approximately 225 wire segments, she developed cough and felt some heaviness in her chest, but these symptoms gradually resolved over the ensuing week. On the day prior to her admission, the patient dipped wire for a second time. After one hour of work in which she finished more than 100 pieces of wire, she became extremely fatigued and could not catch her breath. She began to cough and later to wheeze. Throughout the night, she continued to cough and to produce phlegm. She felt hot and chilly, but denied muscle aches or joint pain. On the day of her admission, her shortness of breath and wheezing worsened, and she felt near death. She decided to seek medical attention.

On physical examination, she was found to be in acute respiratory distress, breathing at 40 times per minute. She responded to vigorous anti-asthmatic therapy including intravenous aminophylline, metaproterenol and steroids. Her asthma abated promptly and her pulmonary function improved. After three days in hospital, she was discharged.

As the woman's illness improved in hospital, we obtained a detailed occupational history. We learned that she had performed the wire dipping operation in her kitchen. She would heat a block of leaded solder in an open pot on her kitchen stove to a temperature of 700 degrees. No ventilation was available. When the solder was molten, she dipped each end of a 25 centimeter segment of polyurethane-coated wire into the solder. This operation caused the plastic coating to vaporize and the end of the wire to become coated with a thin layer of metal. The work was performed on a piece-work basis under contract with a local electronics firm. The coated wires were used by the firm to manufacture radar detectors.

The process of dipping polyurethane-coated wire into heated metal is known to cause the release of isocyanates from polyurethane plastic. The isocyanates are a family of compounds which are potent respiratory sensitizers and are well known to cause industrial asthma. We presume that exposure to isocyanates released during the wire dipping operation caused this woman's near fatal asthma. Additionally, the isocyanates may be carcinogens.

On further follow-up evaluation, we learned that other family members and relatives of the index patient had also performed the wire-dipping operation in their homes for months or years. One of them also had developed asthma in relation to this work. None of these individuals had been informed of the potential hazards of dipping, and they had been given no information concerning the potential toxicity of the materials of which they worked. None of them took special measures to ventilate their homes during this operation. Although young children were present in the homes of several of these family members during dipping operations, no members of the family took particular pains to remove children from the home environment while homework was in progress.

This case illustrates clearly the toxic hazards to health which can result from industrial homework. Home pieceworkers may be exposed to hazardous chemicals in a setting in which there may be poor ventilation, and where engineering controls which would be relatively common in the factory situation are nonexistent. In addition, industrial homeworkers have little access to safety information or to material safety data sheets and little access to medical or to industrial hygiene consultation.

Moreover, and of particular concern to me as a pediatrician, is the potential of industrial homework to cause involuntary exposure of young children in the home environment to toxic materials, which are evolved during piecework production. In the home environment, where industrial homework is often performed on the kitchen table and where ventilation is nonexistent, the passive exposure of young children to industrial toxins is inevitable. Reported exposures to children to toxins in this circumstance include exposure to cadmium, beryllium, and asbestos in the home assembly of jewelry components; the exposure to formaldehyde, a known carcinogen, which vaporizes from permanent press fabrics in home garment work; and exposure to lead with resultant lead poisoning in the home assembly of automobile batteries and the home construction of stained glass windows.

The Hazards of Illegal Work. A second category of pediatric hazard which results from industrial homework is the risk that children themselves will be drawn into the work. I consider the involvement of children in industrial homework to be inevitable, if work is allowed by law to occur in the home. The involvement of children in industrial homework was seen time and time again in the early years of this century. It was considered at that time to be an inevitable concomitant of industrial homework. Indeed, the inability of the Department of Labor to regulate the involvement of children in industrial homework constituted a major basis for the decision which was made by the Department of Labor in 1942 to declare industrial homework illegal. If children are drawn into the process of industrial homework as a part of their involvement in the family, then these children will become the youngest and most vulnerable and least protected members of our industrial workforce.

Child labor is a major cause of injury, illness and death in children. In 1986, the most recent year for which complete data are available, data from the New York State Workers' Compensation Board indicate that 1,333 awards for work-related injury and illness were made to children under the age of 18 years. Ninety-nine of these awards were to children under the age of 15 years. Five hundred and forty-one (41%) of these awards to children were for permanent disability. Six were for work-related deaths. The reported injuries in 1986 to working children in New York State included chemical burns (12), thermal burns (108), lacerations (436), fractures (238), head injuries (109), amputations (21) and injuries of multiple body parts (87). This is a fearsome toll to children under the age of 18 years. It is a major cause of reduced quality of life in the years ahead, and a major contributor to medical costs.

The involvement of children in the work enterprise is an inevitable consequence of industrial homework. There is simply no way that the United States Department of Labor can adequately police the home worksite, whether the worksite is in some fashion registered or not. There are not enough OSHA inspectors today to adequately police even established factories in the United

States; at present, because of their inadequate numbers, OSHA inspectors are able to visit each workplace in the United States only once in a decade, and many workplaces have never been inspected. Additionally, the number of OSHA inspectors in the field, and the number of OSHA inspections have been reduced over the past eight years as a consequence of personnel cuts made by this and the preceding federal administration. In light of these facts, it is beyond belief to imagine that OSHA inspectors, who because of their diminished numbers cannot even inspect established factories, will be able adequately to inspect industrial homesites. Children and adults working in the needle trades at home will be exposed to toxins, such as formaldehyde and exposed also to physical hazards such as the risk of injury and the risk of chronic repetitive motion injury. Children will be stunted as the result of this effort. Their lives will be blighted. I cannot envision that the United States Department of Labor will be able effectively to prevent those consequences of industrial homework.

As a pediatrician, I can think of no circumstance whatsoever in which industrial homework can be good for children. To be sure, healthy work well supervised in a safe environment for a limited number of hours and under safe conditions, can be good for the development of children. Such work is to be encouraged. It is a part of teaching children life's work. But the labor of children for long hours under the kitchen lights, sewing, stitching, carrying thread and moving cloth late into the night while schoolwork remains undone, and while sleep is kept at bay, is bad, unhealthy, dangerous, and barbaric. It is associated with exposure to toxins and carcinogens, such as formaldehyde. It is associated with cuts and needle injuries. School principals report to us that industrial homework is associated with previously bright and alert children falling asleep at their desks and failing to learn. I simply cannot believe that the current federal administration which came into office claiming that it would bring about a kindlier, gentler America, and claiming that it would be an administration which put a premium on education, and claiming that it would be an administration which put value on the family, could allow this atrocity to resurrect itself in the United States in the last decade of this century.

If you gentlemen sitting on this panel decide ultimately to pursue this reckless and imprudent course to permit establishment of regulations which would allow children in American society to become workers in their own homes, then you must do so in the full realization of the consequences that you are bringing into the lives of children. I hope that your own children are not afflicted by the misery which you propose to bring on the children of others.

Thank you. I'll be glad to answer any questions.

Brief Communication

Occupational Asthma in a Home Pieceworker

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ABSTRACT. A 67-yr-old woman presented to a free-standing medical center with respiratory distress of 1 day's duration. She was found on evaluation to have asthma associated with "dipping" the ends of polyurethane-coated wire into molten solder in the production, in her home, of components for the electronics industry. This process has been known to result in the evolution of isocyanates. The patient's sister had also developed cough and wheeze after she performed similar home piecework. Neither the manufacturer nor the distributors of the wire had provided a warning of its potential respiratory hazards. This episode emphasizes the importance of the occupational history, and of following back thoroughly on cases of occupational disease. In addition, this episode reminds us that home pieceworkers are unlikely to have benefit of advice from industrial hygienists or others skilled in recognizing potentially hazardous situations.

FREQUENTLY clinicians fail to consider disease entities of occupational or environmental origin in forming their differential diagnoses.[1] It has been suggested that widespread neglect of the occupational history forms the basis for this oversight.[2] This neglect, in turn, is arguably a consequence of failure to emphasize the importance of the occupational history in literature on physical diagnosis and family medicine,[3] and also of inadequate undergraduate training in occupational medicine.[4]

The "sentinel health event" (SHE) concept offers an approach to improved clinical recognition of occupational disease.[5] A sentinel health event (occupational) is defined as "an unnecessary disease, disability, or untimely death which is occupationally related and whose occurrence may: (1) provide the impetus for epidemiologic or industrial hygiene studies; or (2) serve as a warning signal that materials substitution, engineering controls, personal protection, or medical care may be required.[1-5] Concise tables have been developed which list those sentinel diseases for which there exists a high likelihood of occupational origin.

We describe herein a case of severe asthma which occurred in a retired woman. The examining physician learned in the course of obtaining an occupational history, that while doing electronics piecework in her home, the woman had been exposed to fumes from polyurethane-coated wire. On the basis of that history, he suspected a diagnosis of occupational asthma and requested consultation from an occupational physician. This case illustrates the value of the sentinel health event concept as guide to the diagnosis. Moreover, it demonstrates the dangers which may confront workers in "cottage industries" who are frequently uninformed as to the hazards of the materials with which they work.

Case report

In March 1984, a 67-yr-old white female presented to an emergency center with symptoms of severe shortness of breath, cough, and a feeling of "choking to death" of 1 day's duration.

The patient was in her usual state of health, with occasional cough and shortness of breath on exertion, until 9 days prior to admission, when she first engaged in "dipping" polyurethane-coated wire into solder. This process is known to result in the evolution of isocyanates.[6,7] At the end of a 2-hr period in which she dipped three bundles of wire (225 wire segments), she developed cough and felt some heaviness in her chest but these symptoms resolved gradually over the ensuing week.

On the day prior to admission, the patient dipped wire for the second time. After 1 hr of work, in which she finished one bundle of wire, she felt extremely fatigued and was unable to proceed further. She could not catch her breath, she began to cough and later to wheeze, but she felt no chest pain. Through the night, she continued to experience cough, productive of phlegm without hemoptysis. She reported feeling hot and chilly, but denied muscle aches or joint pain. On the day of admission, her shortness of breath, cough, and wheezing worsened. She denied taking any medication, had no known allergies, had smoked two packs of cigarettes per day for 30 yr and had been told that she had "emphysema." She had never previously experienced episodes of wheezing asthma or symptoms similar to those leading to admission.

On physical examination, pulse was 122/min, respirations 40/min, and blood pressure, 150/90 mm Hg. She was afebrile. Diffuse expiratory rhonchi were present. The chest radiograph showed evidence of emphysema. Electrocardiogram showed sinus tachycardia with left axis deviation and nonspecific ST-T wave abnormalities. Arterial blood gases performed approximately 3 hr after the initiation of oxygen therapy when symptoms had partially abated were: pH, 7.40; pCO_2, 30.9 mm Hg; pO_2, 96.9 mm Hg; HCO_3, 18.9 meq/L; and O_2 saturation, 97.3%. The white blood count was 9.6 thousand with a normal differential. The patient was treated with intravenous aminophylline, aerosolized metaproterenol sulfate, and steroids. Her bronchospasm abated promptly. Pulmonary function studies performed when the patient was free of bronchospasm prior to discharge demonstrated a forced vital capacity (FVC) of 1.96 L (68% of predicted), forced expiratory volume in 1 second ($FEV_{1.0}$) of 1.5 L (72% of predicted), and a $FEV_{1.0}/FVC$ ratio of 76%. She was discharged on the third hospital day on rapidly tapering prednisone and oral albuterol (Ventolin®).

Occupational history

The patient had worked for approximately 10 yr beginning at age 15 as a packer in a match factory. She described conditions there as very dusty, but she had experienced no respiratory symptoms. For another 10 yr (during the 1950s), she soldered unpainted metal lugs in the manufacture of electrical harnesses for airplanes. This work also caused her no respiratory distress. In the early 1960s, she worked for several years as a solderer making battery chargers, again she experienced no health problems. In the late 1960s, she worked as a sales clerk. She had not worked outside her home during the 10 yr before admission.

At the time of admission, the patient was retired and lived in a trailer home. In the wire-dipping operation, which she performed in her kitchen, she heated blocks of lead tin solder in a soldering pot to a temperature of 650-700°F. When the solder was molten, she dipped each end of a 25-cm section of polyurethane-coated wire into the solder. This operation caused the plastic coating to vaporize, and the end of the wire to become coated with a thin layer of solder metal. The patient stated that on both occasions when she had performed the dipping, the stove fan in her trailer had been operating and the windows had been open. No flux was involved. The work was performed on a piecework basis under contract from a local electronics firm. The coated wires were used to manufacture electrical components of hospital beds and also to make portable radar detectors.

Other exposed individuals

A sister of the patient had performed the same wire-dipping operation in her home twice a week for 1 mo 1 yr previously. Although she had initially experienced no respiratory distress, she reported that she had gradually developed cough and wheeze and that she had one episode of severe dyspnea. She eventually ceased dipping because of her breathing problems, but continued to perform other home piecework. Two other relatives, a grandson and a nephew, also performed wire dipping in their homes. These two persons were not interviewed, but reportedly have not had symptoms related to dipping, nor have young children who lived in the home of the nephew.

Wire for the dipping operation was supplied to the patient, to her sister, and to the other family members by the patient's brother-in-law, who operated a small job shop which produced electronics items under contract for local manufacturers. The brother-in-law stated that he was not aware of the potential hazards involved in dipping, and that he had provided no information to his family members concerning the potential toxicity of the materials. The patient's sister supplied samples of the wire to the investigators. The wire that was used in the dipping is 20-gauge copper, coated with nylon and overcoated with polyurethane. We learned that the distributor in Dayton, Ohio, obtained the wire from a company in Richmond, Indiana, which in turn, had obtained it from a manufacturer in Fort Wayne, Indiana. A material safety data sheet (MSDS) for the wire provided to customers by the manufacturer indicated that "decomposition products when heated unknown-may contain isocyanates." We learned subsequently, from the Executive Director for Development and Technical Operations of the wire manufacturing company, that this version of the MSDS had not been prepared until after our inquiry. Previous versions had apparently indicated only that the wire should be used "with adequate ventilation" and health hazards were listed as "unknown"; isocyanates had not been mentioned. The Executive Director stated further that a MSDS is not routinely furnished to customers for the wire.

The patient's family refused a request to perform environmental (air) sampling during subsequent dipping operations.

Discussion

The major point of this report is to illustrate the importance of the occupational history as a means of obtaining clues to a correct diagnosis. Asthma in an adult exposed to fumes of polyurethane plastic is an example of a sentinel health event.[5] The examining physician's recognition of the temporal association between the patient's exposure and her disease made possible not only a proper diagnosis, but also resulted in prevention of further exposure of the patient. Additionally, the follow-back investigation to the manufacturer and the subsequent correction of the inadequacies in the MSDS may have prevented similar exposures of other workers.

Although it was not possible to reproduce the workplace (home) situation to document the exposures to the patient during the dipping process, isocyanates would appear to be the most likely agent. This case is a reminder of a potentially important source of exposure to isocyanates. Isocyanates are highly reactive chemicals which are used widely in the manufacture of polyurethane plastics. Adverse effects of isocyanates on the respiratory tract include direct irritation, sensitization (including asthma), and chronic lung disease.[8,9] The possibility for release of isocyanate (toluene diisocyanate or TDI) on heating of polyurethane in solder has been described previously.[6,7] Paisley reported an outbreak of breathlessness and cough among wire dippers working in a factory manufacturing electrical goods. In that factory, solder in pots was maintained at 360°C (680°F) with local exhaust ventilation. Prior to the outbreak, a new wire, polyurethane-coated, had been introduced. Subsequent testing found that thermal decomposition of the polyurethane coating produced isocyanates and oxides of nitrogen. Similarly Pepys and et al.[7] described two patients who encountered TDI in fumes from soldering polyurethane-coated wire. They commented on the possibility of sensitization to TDI under conditions of limited exposure.

The mechanisms by which isocyanates induce lung disease have been reviewed recently.[10,11] Irritation is one of these mechanisms. It is likely that the asthmatic episode which developed in the index case in this episode involved an irritant reaction complicating preexisting chronic obstructive lung disease. Sensitization (immunologic or nonimmunologic) constitutes a second possible, but less likely etiologic mechanism in the index case. This mechanism is less likely since the interval of 8 days between the initial "dipping" and onset of asthma is probably at the lower limit for the induction of sensitization.[12] Therefore, it is likely that the patient's serious bronchospastic reaction after her second exposure was also caused by the irritant effect of isocyanates. On the other hand, the pattern of gradually developing illness reported by the sister of the index case is more compatible with sensitization.

Regardless of causative agent, or the pathophysiological mechanism, this case illustrates the hazards of piecework in the home or "cottage industry." There are no estimates for the prevalence of this activity in the electronics or other industries. The Fair Labor Standards Act of 1938 protects workers in parts of the apparel and jewelry industry from home piecework. The goal of this law was limitation of the "sweat shop." The regulations established pursuant to the Act do not extend to the electronics industry. Home pieceworkers, and even their family members, may be exposed to hazardous chemicals in a setting where there may be poor ventilation and where other engineering controls, relatively common in the factory situation, are nonexistent. In addition, such workers have little or no access to safety information and no benefit of industrial hygiene consultation. Additionally, there are economic and social pressures on such workers not to admit employment, and therefore it may be exceptionally difficult for their physician to make the connection between illness and a toxic/occupational exposure.

A final point, which was illustrated by our follow-back investigation, concerns the lack of hazard information. Although we were able to trace the wire from the manufacturer through two intermediate distributors to a small shop and thence to family members, at none of these four interaction steps did there appear to be communication about the potential hazards of the materials being supplied. These are obvious errors, violating the right of workers to obtain information about the hazards of the materials with which they work.

* * * * * * * * * *

The authors thank Dr. N. Weinberg of Bethesda Hospital, Cincinnati, Ohio, for his assistance in facilitating the investigation.

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References

1. Goldman, R.H., and Peters, J.M. 1981. The occupational and environmental health history. *JAMA* 246: 2831-36.
2. Philip, R., and Hughes, A.O. 1983. Hospital admissions and occupational histories (letter). *Lancet* i: 129-30.
3. Felton, J.S. 1980. The occupational history: A neglected area in the clinical history. *J Fam Pract* 11: 33-9.
4. Rosenstock, L. 1981. Occupational medicine: Too long neglected. *Ann Intern Med* 95: 774-76.
5. Rutstein, D.D., Mullan, J.M., Frazier, T.M., Halperin, W.E., Melius, J.M., and Sestito, J.P. 1983. A sentinel health event (occupational): A basis for physician recognition and public health surveillance. *Am J Public Health* 73: 1054-62.
6. Paisley, D.P.G. 1969. Isocyanates hazard from wire insulation: An old hazard in a new guise. *Br J Ind Med* 26: 79-81.
7. Pepys, J., Pickering, C.A.C., Breslin, A.B.X., and Terry, D.J. 1972. Asthma due to inhaled chemical agents-toluene diisocyanate. *Clin Allergy* 2: 225-36.
8. National Institute for Occupational Safety and Health. 1978. *Criteria for a Recommended Standard: Occupational Exposure to Diisocyanates.* DHEW publication No. (NIOSH) 78-215. Cincinnati, OH: National Institute for Occupational Safety and Health.
9. National Institute for Occupational Safety and Health. 1981. *Respiratory and Immunologic Evaluation of Isocyanate Exposure in New Manufacturing Plant.* DHHS publication No. (NIOSH) 81-125. Cincinnati, OH: National Institute for Occupational Safety and Health.
10. Bernstein, I.L. 1982. Isocyanate-induced pulmonary disease: A current perspective. *J Allergy Clin Immunol* 70: 24-31.
11. Brooks, S.M. 1983. Bronchial asthma of occupational origin, in Rom WN (ed): *Environmental and Occupational Medicine.* W.N. Rom, Ed., pp. 233-50. Boston, MA: Little, Brown and Company.
12. Karol, M.H., Ioset, H.H., Riley, E.J., and Alaire, Y.C. 1978. Hapten-specific respiratory hypersensitivity in guinea pigs. *Am Ind Hyg Assoc J* 39: 546-56.

STATEMENT ON VIOLATIONS OF CHILD LABOR LAWS
JAY MAZUR, PRESIDENT,
INTERNATIONAL LADIES' GARMENT WORKERS' UNION
Submitted to the Employment and Housing Subcommittee,
Committee on Government Operations,
House of Representatives
March 23, 1990

A dramatic increase in the numbers of violations of child labor laws has caused shock and consternation across the country. The U.S. Department of Labor responded with a nationwide enforcement sweep last week. We support Secretary Dole's strong response to the problem, but a single well-publicized sweep will not change widespread abuses. Violations of the child labor law are accompanied by a return of exploitative labor conditions not seen since the early decades of the twentieth century. The problem demands more enforcement personnel, more effective penalties, and a willingness to use those penalties aggressively.

The GAO has already established that with under 1,000 enforcement officers nationwide to enforce not only child labor laws, but the entire wage and hour law, the Department of Labor is badly understaffed. It is unrealistic to expect the Department to step up enforcement of child labor law without a significant increase in the number of enforcement personnel.

It is essential, especially in light of inadequate enforcement personnel, that fines be increased and that the worst violators of the law be subject to criminal penalties. Fines for child labor, as for other violations of the labor law, cannot be simply a cost of doing business.

Much of the attention thus far has focused on fast-food restaurants and grocery stores-- traditional employers of teenaged workers. This is an area of real concern. The combination of employers facing a labor shortage for minimum wage jobs and teenagers who want to earn spending money may cause irreparable damage to the education and safety of our young people.

However, there is another kind of child labor abuse, one that is often hidden in inner-city basements or lofts, whose victims often speak no English and may not even be legally in this country. These children do not labor to buy a car or the latest fashions for themselves. Most often the child works alongside his or her mother trying to help her earn enough to keep food on the table for the family.

Child labor abuses in the apparel industry are well-documented. The New York State Department of Labor's Apparel Industry Task Force has made child labor abuses a priority and in 1989 found

145 employers in the garment industry in New York in violation of child labor laws. Similar abuses are found across the country, with large concentrations in any city with significant numbers of immigrants.

The rise of such abuses has coincided with the return of the sweatshop beginning in the late 1970's. Driven by harsh labor cost competition in an industry where imports from third-world countries set the labor standards, the sweatshop has drawn from a growing pool of new immigrants, many of the them undocumented, in need of work that does not require English or working papers.

The sweatshop is characterized by multiple violations of the law -- minimum wage, maximum hour, health and safety, homework, child labor. These shops are most often hidden from the law -- not just labor department inspectors, but tax collectors and union organizers as well. These shops exploit entire families, adults and children alike -- who must all work at very low wages to earn even a poverty level income.

Equally important for Federal policy is that industrial homework is one of the most common abuses in the sweatshop -- and child labor goes hand in hand with industrial homework in the apparel industry.

Ironically, while the Department is pledging a crackdown on child labor, it is still considering lifting the ban on industrial homework in women's apparel, even after hearings in 1989 which showed extensive child labor violations in homework in the women's apparel industry. Taken together these two actions would only push child labor out of the shop and into the home.

In hearings held by the Department of Labor last year, five homeworkers, one from Los Angeles, one from Miami, two from Chicago, and one from a small town in Pennsylvania, testified about their own experiences doing homework, either as children or with their own children. Those stories, in the workers' own words, are appended to this statement.

One additional story which occured early this year will help complete the story of child labor in the home. The following is a report submitted by a Vietnamese woman who is assisting the ILGWU and the NYS Department of Labor fight industrial homework in the Vietnamese community in the Bronx. She has asked that her name not be used.

> "One weekday, I entered a four room apartment in the Bronx. From the outset, I noticed that the apartment was very barren with only a few pieces of

furniture. There were no rugs on the floor, however there were materials strewn about. It was a visible sign of homework. It was a home consisting of a Vietnamese mother and four children, of whom two are amerasians. The mother is middle-age while the children range from 12 - 17 with perhaps one year apart in age. While I was talking to the mother, the children - 1 boy, 3 girls were working on the floor in a remarkably ordered manner. One child was in charge of sewing the bows on an old machine in one corner of the room. The materials are then passed to another child who reverse and cut the excess off the bow materials, which are then passed to the next who glued the bows with a gun. The final step was to place hair clips on the bows which was supervised by the young boy. It was an organized and practiced routine.

"With frankness, the mother describe their schedule. She attend ESL classes in the morning while the children attend the nearby junior and high schools. In the afternoon when they come home the children would start on the work that was delivered daily. Usually the work must be done by pick up time the next day. All of the children are needed to pitch in. Quite often when the work is too much the children have to stay up most of the night to finish. When that occurs, they are always very sleepy and unprepared in class. With a sad expression, she stated that though she knows they are unable to keep up with their classmates, they have no choice because she is unable to work and support the whole family. Though the money they get is poor with $1.20 for a dozen of bows sometimes maybe $1.50, they can make on an average about 3-4 dozens an hour. In one good night they may make up to $40. But that is if they work most of the night. Though it is not much but with foodstamp and medicaid they can have some spending money. Sometimes when the children complain, she must constantly reassures them that one day they will make enough to stop working like this and move away.

"Situation like above I have seen often in my investigation. Most family do homework until they can save enough to move or confident enough to get off welfare. However, this kind of mentality persists and they continue to work at home for years. In the meanwhile, the children suffer and usually do not go on after highschool due to academic deficiency. It is a shame in these children's cases because being americans they deserve more for their future in the land of their father."

If the U.S. Department of Labor is serious about stopping child labor, there is much that it can do. However, if the Department proceeds with its proposal to lift the ban on industrial homework in women's apparel, it will make a mockery of all its professed concern about child labor. For the most vulnerable children in America, industrial homework in the apparel industry means a childhood spent in late nights of forced labor.

Fighting the sweatshop will take a concerted effort of all parties at both the Federal and State levels. The ILGWU has worked closely with the NYS Department of Labor's Apparel Industry Task Force in its efforts to identify sweatshops and to cite them for multiple violations of the law-- including building and fire code. Inspectors must be trained and must have the ability to speak the languages of these immigrant workers and employers.

Even with these efforts, the fight against sweatshops will be a largely futile task if we do not hold the manufacturers and retailers who do business with-- and profit from-- sweatshops responsible for the conditions under which their clothing is sewn. The ILGWU is supporting legislation in California which will establish such "joint liability" under the law.

In spite of the climate of fear, the ILGWU has found many immigrant workers who are willing to stand up and organize for better working conditions. Unfortunately, all too often, the employer tries to intimidate the workers with threats and firings of union activists, and, if that fails, simply closes up and moves away, thwarting the workers' rights under the National Labor Relations Act.

Justice for immigrant workers-- adults and chidlren-- in our new sweatshops will demand a concerted effort across this country, on the scale of the national campaign which emerged from the Triangle Fire disaster in 1911. But simple American justice demands nothing less.

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Herbert J. Grover
Superintendent of Public Instruction

March 14, 1990

The Honorable Tom Lantos, Chair
SubCommittee on Employment and Housing
U.S. House of Representatives
B-349 A Rayburn House Office Building
Washington, D.C. 20515

RE: YOUTH EMPLOYMENT NEEDS SERIOUS STUDY

Dear Congressman Lantos:

I join other educators, parents, and employers in expressing a real concern about the amount of time high school students devote to school and employment. This concern is heightened as school reform efforts create more demands in the classroom while, at the same time, employers have a growing need for teenage workers.

We know that among industrialized countries, the United States has the highest rate of working students, with Canada a distant second. We know that in Japan working while one is in high school is almost unheard of. Laurence Steinberg, co-author of "When Teenagers Work," says, "The Japanese society is organized such that school is the only thing that kids are to be concerned about while they're teenagers."

We also know that high school students who work have less time for studying and participating in extracurricular activities. A recent study by the (Wisconsin) Green Bay Education Association found that two-thirds of all high school students in Green Bay held a job at sometime during the school year, and 20 percent of the students worked 21 to 30 hours per week in addition to going to school. Teachers reported that young people working inordinate amounts of time had higher absenteeism, often slept in class, and missed out on extracurricular activities.

The Green Bay study also found that 10 percent of their working students finished their jobs after 11 p.m. on school nights, a violation of Wisconsin's child labor law requiring that minors receive at least eight consecutive hours of rest between the ending of work and the beginning of school. "Allowing 16- and 17-year-olds to work 40 hours per week during the school year makes a mockery of initiatives that emphasize the need for improved educational and attendance standards," the association study said. "How can a child perform two full-time jobs, and do them both effectively?"

Teachers in Green Bay said they had difficulty assigning homework at night when teenagers were working until 10 p.m. The (Wisconsin) Green Bay Education Association stated, "Education today is faced with a new crisis--working students whose first priority is not the assignment in algebra or chemistry but whether they can get to the job on time for a full shift."

We also know that work can benefit students. Studies have shown little or no effect on school performance if students keep their work time to less than 20 hours per week and they receive supervision through business-education partnerships.

There has to be a balance between work and school, but even more importantly, there needs to be a better understanding among business, education, parents, and the students themselves of both the positive and detrimental effects of youth employment. Surely, there are benefits to working, but no one should expect a high school student to work 30 or 40 hours a week and still receive the kind of education that is needed to pursue further education or full-time, gainful employment. We need new linkages among the schools, parents, and employers so that we don't have ill-prepared high school graduates.

My concern is not with work experiences and apprenticeships that contain complementary educational components. School-supervised work experiences can be very beneficial when they contain limits on hours, include an evaluation component, and are designed to develop good work habits and career interests. Further, we recognize the need for some teenagers to contribute to the financial well-being of their families. But, before we accept this notion, it important to be sure of our facts. The Green Bay Study shows that substantial numbers of students are working for "spending money."

Therefore, I have taken the initiative to create a broad-based task force to study youth employment in Wisconsin. Parents, school board members, educators, students, business people, and government officials are studying the issue of Wisconsin high school students working during the school year.

The Green Bay Study, published by the (Wisconsin) Green Bay Education Association, represents clear evidence of the problems associated with youth employment and provides a foundation for curtailing abuses and for better educating the public on the need for a balance between youth employment and high school education.

Sincerely,

Bert

Herbert J. Grover
State Superintendent

enclosures
HJG:mb

cc: All Members, Wisconsin Congressional Delegation
Gerald Whitburn, Secretary, Department of Industry, Labor and Human Relations
Jerry Olbrich, Chair, Green Bay Education Assn. Task Force on Teenage Employment
Representative Richard Grobschmidt, Wisconsin Assembly; and Chair, State Superintendent's Task Force on Youth Employment

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Written testimony, House Subcommittee on Employment and Housing, March 16, 1990

GBEA TASK FORCE PRESENTS FINDINGS OF STUDY ON TEENAGE EMPLOYMENT

November 1, 1989 Teacher Edition

GBEA RELEASES REPORT

In January of 1987, the Green Bay Education Association formed a committee of teachers and counselors to study teenage employment. It made its first report through an issue of *LET'S TALK*, a teacher-parent newsletter, in February of 1988. The committee was formed because of growing concern on the part of many high school teachers that too many students were working too many hours and that this condition affected student performance in school.

Last year, beginning in September, a second Task Force consisting of Green Bay teachers, District administrators and UW-Green Bay education faculty, surveyed students, parents and teachers in an effort to determine the impact of employment on students. In particular, three areas were studied: student attendance in school, the completion of homework, and participation in extra-curricular activities.

On Friday, October 6, 1989, Jerry Olbrich, chairperson of the Task Force and a social studies teacher at East High, called a news conference at the GBEA office to present the findings of the study to the media. On the same day, the Association mailed nearly 14,000 copies of the teacher-parent newsletter *LET'S TALK* to parents of children in the Green Bay Area Public School District. This teacher edition will provide GBEA members with additional research results which are of particular interest to teachers.

WHEN DO STUDENTS WORK DURING THE SCHOOL YEAR?

Of the students who held jobs during the 1988-89 school year, 88% worked school days and weekends, while 10% worked weekends only and 2% worked during breaks and vacations only.

WHY DO STUDENTS WORK?

Two of three students (67%) work to earn spending money. In addition, when asked, "Why do students work?", 81% of the parents and 96% of the teachers felt that the reason students work is for spending money. Only one in four students (27%) indicated that saving for school was the main reason they worked. A considerably smaller number of parents (17%) gave the same reason. Only 1% of the teachers who responded to the survey believed that saving for school was the main reason.

WHAT KIND OF JOBS DO STUDENTS HOLD?

The majority of students work for either a company or business (42%), with restaurant and fast food placing second (23%), private individuals being third (21%), self-employed fourth ([illegible]%) and school related programs a distant fifth (4%).

HOW MANY DAYS A WEEK DO STUDENTS WORK?

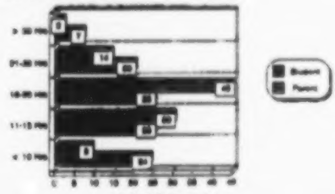
While 33% of the students surveyed work five or more days a week, only 8% of parents surveyed indicated that students should work that many days. In all, 87% of parents feel that students should work no more than four days a week with the vast majority (71%) favoring three to four days. But the reality is that 35% of working teenagers (one in three) are employed more than four days a week.

HOW MANY HOURS DO STUDENTS WORK?

Graph 1 compares the number of hours that students actually work with the number of hours that parents indicated they should work. By comparing the information, a majority of the parents, 45%, felt that students should work between 16 and 20 hours per week at the most. Adding the figures in the categories below 20 hours shows that 84% of parents feel that students should work 20 hours a week or less. In actuality, 27% of the students surveyed work more than 20 hours per week.

HOURS STUDENTS DO WORK

HOURS PARENTS SAY TEENS SHOULD WORK

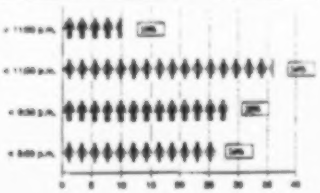


GRAPH #1

HOW LATE DO TEENS WORK?

An area that becomes a major concern for teachers in dealing with working students is how late they work on school nights (Graph 2). Of all working students, 46% finish on school nights after 9:30, with 36% finishing before 11:00 and 10% finishing after 11:00. When surveyed, 89% of the teachers felt that students should not work past 10:00 at night, and another 8% felt that students should not be allowed to work at all. Of the parents surveyed, 74% also felt that 10:00 was late enough for students to work. When a student finishes his job between 9:30 and 10:00 on a school night, how much time can he really have to prepare for school?

TIME STUDENTS FINISH WORK ON SCHOOL NIGHTS



GRAPH #2

WHAT PERCENTAGE OF STUDENTS WORK?

In May of 1987 when the first survey was conducted, 46% (1,991 students) were working. Another 18% (764 students) had worked during the school year but were not working at the time of the survey. Approximately one-third (36%), or 1,549 students, had never worked during the 1986-87 school year. Last March, however, when the second survey was conducted, of the 4,243 students surveyed, 60%, or 2,440 students, were working. An additional 14%, or 590 students, had been employed during the year, while only 26%, 1,080 students, had never worked.

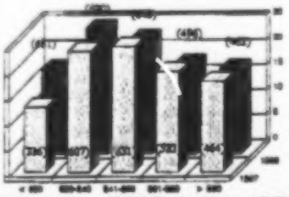
HOW MUCH DO STUDENTS EARN?

One area that seemed to be rather consistent between the two years in our study, however, was the amount of money that students earn. There are nearly as many students earning more than $80 a week in take-home pay as was the case two years ago. As was indicated earlier, whatever a student earns appears to be spent. A student working 20 hours per week will easily earn $60 to $80 in take-home pay. This equals $240 to $320 per month, or nearly $3,000 per year. How many adults have that kind of money for "free" spending? (See Graph 3)

The primary purpose of the Task Force's study, however, was not to reinvestigate how much students work and how much money they earn. That was determined two years ago. Rather, it was to research the effect of teen employment on attendance, the completion of homework and participation in extra-curricular activities.

WEEKLY STUDENT EARNINGS

COMPARISON OF 1987 AND 1989



NUMBER OF ACTUAL STUDENTS SHOWN IN PARENTHESES

GRAPH #3

HOW MUCH TIME IS AND SHOULD BE SPENT ON HOMEWORK?

The Task Force was very interested in what parents, students and teachers had to say about homework. Two of every three parents, 64%, felt that their child should have more than 60 minutes of homework each night with 28% saying that their child should spend between 60 and 90 minutes on homework. An additional 36% said their child should spend more than 90 minutes on homework. Only 3% felt their child should spend up to 30 minutes on homework.

Students have a different idea when it comes to school work since 74% (3 of every 4) say they spend less than one hour per night on homework. Working students, however, showed a slight improvement over 1987 with 25% (1 in 4) saying they spend more than 60 minutes on homework today as compared to 18% (1 in 5) in 1987. Since 30% of the teachers responded that they assign up to 15 minutes per night, and another 52% said they assign more than 15 minutes, students should have between one and two hours of homework per night. Yet, do they do it?

DOES A JOB AFFECT A STUDENT'S STUDIES?

Of all working students, nearly one-third indicated that their job had a negative effect on studies. For students who work more than 20 hours per week, 41% said that a job had a negative effect on their studies. (See Chart 1.)

CHART 1

How Does a Job Affect a Student's Studies?

	No Effect	Negative Effect	Positive Effect
All students	53%	34%	13%
Students who work 20 hours/wk	42%	41%	17%
A/B Students	55%	35%	10%
D/F Students	50%	29%	21%

When they work students appear to plan everything around work. One question on the survey asked, "When I work, I plan everything around work." One of every four students (24%) responded with the comment "always" to that question. For students who work more than 20 hours per week, 33% (1 in 3) said "always." Of all working students 80% indicated that they sometimes, frequently or always planned everything around work when they worked. Only 20% answered seldom or never to the same question. What is more important to a working student? Unfortunately, we found that the answer is what we suspected – WORK.

"I think his job's getting to him. Last week, he said Columbus came over on the McNina, McPinta and McSanta Maria."

DO STUDENTS COMPLETE HOMEWORK ASSIGNMENTS?

Chart 2 shows the percentage of respondents who said that they always or frequently get their homework done. This is hardly new knowledge, but students who have poorer grades, who are juniors or seniors, and those who work more than 16 hours per week tend not to complete their homework.

CHART 2

When I Work I Get My Homework Done

OF THOSE WHO RESPONDED
ALWAYS/FREQUENTLY

	ALWAYS	FREQUENTLY
All students	34%	35%
A students	47%	37%
B students	41%	38%
C students	29%	38%
D students	19%	19%
E/F students	0%	23%
Students who work < 10 hrs/wk	51%	29%
Students who work 11-15 hrs/wk	36%	37%
Students who work 16-20 hrs/wk	26%	37%
Students who work 21-30 hrs/wk	27%	36%
Students who work > 30 hrs/wk	25%	33%
9th graders	47%	31%
10th graders	40%	32%
11th graders	28%	36%
12th graders	29%	30%

STUDENT ABSENCES CONCERN TEACHERS

In early March 1989, the Task Force surveyed all students who were present in the four Green Bay high schools. Approximately 90%, or 4,243, surveys were completed and returned. Nearly 500 students, or 10%, did not complete the survey, presumably because they were absent from school on the day the survey was given. These students in all likelihood would have added negatively to the statistics on absenteeism and time spent on homework and participation in extra-curriculars.

In *LET'S TALK* it was reported that the average high school student misses 13.13 days per year of school. One should not conclude that these days are missed because of work. Employment has had no effect or a positive effect on school attendance for many students. However, for 11th and 12th graders, C and D students, and those who work more than 15 hours per week, school attendance suffers because of work. (See Chart 3)

CHART 3

Does Employment Affect Your School Attendance?

	No Effect	Positive Effect	Negative Effect
All working students	81%	8%	11%
9th graders	86%	9%	6%
10th graders	86%	6%	7%
11th graders	80%	8%	13%
12th graders	75%	10%	16%
A students	86%	6%	8%
B students	84%	8%	9%
C students	78%	10%	12%
D students	72%	11%	18%
Students who work < 10 hrs/wk	91%	6%	4%
Students who work 11-15 hrs/wk	87%	6%	7%
Students who work 16-20 hrs/wk	75%	10%	14%
Students who work > 20 hrs/wk	68%	12%	20%

TARDINESS ON THE RISE

Of the teachers surveyed, 24% felt that absenteeism is most harmful to student achievement. The lack of student interest and of parental concern ranked first and second. In addition, nearly 50% of the teachers cited tardiness to first hour class as being higher than previous years, and 60% felt that student absences were higher than in past years.

DOES EMPLOYMENT AFFECT EXTRA-CURRICULARS?

A high school education is more than classes and homework. It also includes extra-curricular activities, which have always been viewed as a fundamental part of a complete education. Two-thirds (66%) of parents believe that after-school employment has a negative affect on participation in extra-curriculars (See Chart 4), while 47% (nearly half) of the teachers cite jobs as the major reason for the decline in student involvement.

What do students say? The Task Force asked this question of all working students, "Although I work, I participate in extra-curriculars." 37% of all students (1 in 3) participated less; 50% (1 in 2) of all students who work more than 20 hours per week participate less.

Half of those surveyed (51%) indicated that they participated in extra-curriculars the same as before they worked, and 12% said they participated more.

CHART 4

Does After School Employment Have an Effect On Student Participation in Extra-Curricular Activities?

PARENTS SAY

Negative effect	66%
No effect	22%
Positive effect	12%

TEACHERS NEED TO LEAD THE WAY IN BEGINNING DIALOGUE WITH PARENTS

The committee made seven suggestions to parents of working teens on the last page of *LET'S TALK*. As educators we are not condemning work. However, we need to communicate effectively with students and their parents as to how jobs might be interfering with a student's academic achievement. We need to re-focus the community to the idea that school for teenagers must come before work. The system of education in the United States is often compared to that of the Japanese. It is significant to note, as a conclusion to this report, that less than 2% of Japanese 16- and 17-year-olds work. Laurence Steinberg, a Temple University researcher who has done extensive work on teen employment, says, "Working while one goes to high school is unheard of in Japan. The Japanese society is organized such that school is the only thing that kids are to be concerned about while they are teenagers." This report has shown that 60% of Green Bay high school students were working last March, and 75% had worked during the 1988-89 school year. Perhaps our society needs to evaluate its priorities. We hope that this study conducted by the Green Bay Education Association will cause parents, teachers, students and the community to begin a dialogue which will assure that teenage employment does not adversely affect student achievement, attendance in school, and participation in extra-curricular activities.

This report is published by the Green Bay Education Association, which is solely responsible for its contents. Any questions or concerns should be addressed to the GBEA, 1960 August Street, Green Bay, WI 54302.

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Herbert J. Grover
Superintendent of Public Instruction

HERBERT J. GROVER'S CHARGE

to the

TASK FORCE ON YOUTH EMPLOYMENT

I join other educators, parents, and employers in expressing a real concern about the amount of time high school students devote to school and employment. This concern is heightened as school reform efforts create more demands in the classroom while, at the same time, employers have a growing need for teenage workers.

We know that among industrialized countries, the United States has the highest rate of working students, with Canada a distant second. We know that in Japan working while one is in high school is almost unheard of. According to Laurence Steinberg, co-author of When Teenagers Work, "The Japanese society is organized such that school is the only thing that kids are to be concerned about while they're teenagers."

We also know that high school students who work have less time for studying and participating in extracurricular acitivities. A recent study by the Green Bay Education Association found that two-thirds of all high school students in Green Bay held a job sometime during the school year, and 20 percent of the students worked 21 to 30 hours per week in addition to going to school. Teachers reported that young people working inordinate amounts of time had higher absenteeism, often slept in class, and missed out on extracurricular activites. Teachers said they had difficulty assigning homework at night when teenagers were working until 10 p.m. The Association stated, "Education today is faced with a new crisis--working students whose first priority is not the assignment in algebra or chemistry but whether they can get to the job on time for a full shift."

We also know that work can benefit students. Studies have shown little or no effect on school performance if students keep their work time to less than 20 hours per week and they receive school supervision through business-education partnerships.

There has to be a balance between work and school, but even more importantly there needs to be a better understanding among business, education, parents, and the students themselves on both the positive and detrimental effects of youth employment. Surely, there are benefits to working, but no one should expect a high school student to work 30 or 40 hours a week and still receive the kind of education that is needed to pursue further education or fulltime gainful employment. We need new linkages among the schools, parents, and employers so that we don't have ill-prepared high school graduates.

Therefore, I am taking the intitiative to create a broad-based task force on Youth Employment. My concern is not with work experiences and apprenticeships that contain complimentary educational components. School-supervised work experiencs can be very beneficial when they contain limits on hours, include an evaluation component, and are designed to develop good work habits and career interests. Further, we recognize the need for some teenagers to contribute to the financial well being of their families.

My specific charge to the Task Force on Youth Employment is to:

—study issues related to youth employment and promote an understanding among employers, parents, and educators on the structure and limit on hours needed in order for work experience to have a positive effect on academic achievement.

—develop a guide containing recommendations for teenage employment to be sent to parents, schools, and employers.

—expand partnerships between employers and schools so that when teenage employment does take place it contains an educational component and helps students develop good work habits and attitudes.

—review existing laws and regulations on child labor to determine the relationship between current regulations and research supporting the limits needed on teenage employment.

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March 10, 1990

Hon. Tom Lantos
Chairman
Subcommittee on Employment and Housing
Committee on Government Operations
U.S. House of Representatives
Rayburn House Office Building, Room B-349-A
Washington, DC 20515

Dear Congressman Lantos:

Thank you very much for your letter of March 5, 1990 inviting the National Safe Workplace Institute to provide its views for your March 16th hearing on the problem of child labor and the exploitation of youth in the workplace. We applaud your leadership in holding this most important hearing. As you know, the Institute has been engaged in research on the role of work in the lives of teenagers for the past 18 months. We received a grant from the Aetna Foundation to spearhead our work, which we recently expanded into our Workforce Preparedness Project.

Our work has led us to conclude that child labor abuse in America is greatly underappreciated. We divide abuse into three areas: (1) traditional child labor, (2) farm child labor, and (3) fast food industry abuse. All three areas have been neglected by society and the institutions, public and private, that have been entrusted to ensure that the interests of young men and women are protected. It has often been said that our young people are the nation's most precious resource. For too many youngsters, this has been more of an illusion than a reality.

For the remainder of this statement, we will address each of these three areas in terms of our observations and research. We will reserve most of our commentary for the third area, fast food industry abuses, which has been the focal point of our work. As you know, we intend to publish a national report later this year. We will also host a roundtable involving national leaders on what can be done to correct problems in the fast food industry.

Traditional Child Labor Abuse

The tragedy of child labor abuse has been documented by journalists, investigative bodies, academicians and others since the first child labor laws

An Independent Research, Education and Intervention Organization Devoted to Safe Workplaces.

were enacted in 1928. Every day ruthless operators subject the nation's children to the horror of sweat labor. In tolerating this behavior, we are aiding and abetting the robbing of dreams of young people who may never know the possibilities of being young in America.

The Institute, and other research organizations, are beginning to document that children, including very young children, are being injured and killed, with regularity, in the course of employment. One can see the gravity of this problem by reviewing the data of state workers' compensation bureaus that track injuries and fatalities to workers below the age of 18. It is evident that only a small fraction of job-related injuries to juveniles result in insurance claims, so it is likely that injuries are much higher than official statistics reveal.

Serious injuries, even deaths, are commonplace in the U.S. For example, Bernie Kimmell, a 15 year old, was crushed to death when a forklift he was operating for an Elkton, Virginia-based Seven Up bottling plant overturned. We have documented deaths of young people in Colorado, Maine, Virginia and other states who were killed doing work that is dangerous even for adults.

In our work, we have interviewed Department of Labor field personnel who have responsibility for child labor compliance investigations. These highly motivated professionals freely acknowledge that they lack the resources--budget and personnel--to investigate even a small fraction of leads.

Farm Labor Abuse

From an occupational health and safety perspective, the most serious child abuse in America occurs on the nation's farms and ranches. Studies by researchers at the Mayo Clinic and Purdue University show that hundreds of youngsters are maimed and killed with total impunity. We, as a nation, have given our farm families a license to expose children to hazards that should have been outlawed decades ago. Last year, the Institute documented the death of a three year old Texas youth killed while working with his family on a farm near Austin. There are dozens of youngsters, aged 4-11, crushed to death in tractor roll-overs, mangled in power takeoffs, suffocated at the bottom of grain wagons, andkilled in other ways.

We have allowed this problem to go on unabated because most of these young people were killed or injured while working with or for their family. We have come to have sympathy for the family farmer and rancher, without understanding that there is a wider public interest that should encourage us to scrutinize certain behavior, even behavior on our farms and ranches.

It is outrageous that no one investigates deaths, especially to young people, on farms and ranches. This failure rests with Congress. In recent years, the Congress has added an appropriations rider that bars the U.S. Occupational Safety and Health Administration from investigating farms and ranches, even when fatal accidents occur. The federal role in farm safety has been limited to greatly underfunded Extension Service programs.

It is time for creative and effective leadership to reduce farm accidents. There should be farm safety audits, conducted jointly by the Departments of Agriculture and Labor. Child labor use, involving family members or other youth, should be considered a hazard. Farmers and ranchers should be given a period of time to correct violations. If violations are not corrected, we think that the farmer or rancher should lose eligibility for federal programs or subsidies. For a farmer, this would mean that continued violations would result in lost crop or home loans, disaster assistance, etc. For a rancher, this would mean that violations would result in reduced access to subsidized, federal grazing leases. Reduced access to federal programs would be a first step to more punitive measures.

The carnage that has taken place on American's farms and ranches will only end when leaders in the Congress insist upon responsible and effective change.

Fast Food Industry Abuses

The largest employer of teenagers in the U.S. today is the fast food industry. Unfortunately, the demands of work for too many youths in this industry have taken a priority over the interests of school, family and community. This has been the most neglected area of child labor abuse in the U.S.

The cause for our neglect is not difficult to understand. The fast food industry, which did not exist 25 years ago, has rapidly evolved to the point where it now employs a large and growing share of the teenage labor force. The growth of this industry has been so rapid that we have not had a chance to understand and digest the adverse consequences of work in this industry.

Just last week, Secretary of Labor Dole announced that litigation would be pursued against Burger King for widespread child labor violations. We welcome this intervention, but we wonder if it can be sustained or will result in enduring change. Based on our surveys of fast food managers in Chicago, Baltimore, Philadelphia and Los Angeles, we have concluded that child labor law violations are routine and widespread, particularly in suburban and labor-short areas of the U.S. Ironically, fast food industry managers are far more selective in urban areas where competition is keener for these type of jobs.

It is important to understand that the role of work in the lives of teenagers is much different in the fast food industry than it is in many other jobs. There are four major differences. First, youngsters work with little or no supervision. Second, the frenetic pace produces stress, which sometimes results in sleep loss. Third, work is routine and monotonous. Fourth, teenagers are likely to work far into the night, even until 1 or 2 a.m. on school nights.

These four differences have an adverse impact on the lives of young workers. We are not alone in our assessment and concern. In an important 1986 study sponsored by the Spencer Foundation, Ellen Greenberger and Laurence Steinberg documented educational diminishment, anti-social behavior, increased absenteeism, poor health, and other dysfunctions among working teenagers in school.

Secretary Dole's very recent Burger King raid should be applauded by all of those who care about the nation's young people. The fast food industry must see the Secretary's leadership as a challenge to find a path toward enduring and meaningful change. Our strategy for the fast food industry must recognize that many youngsters must work because of family poverty or to finance a college education. There are clear costs to thoughtlessly limiting access to work. Effective strategy must result in monitoring programs and cooperative strategies that protect the interests of young workers. It is easy to measure the success of such strategies by evaluating the academic performance and absenteeism of student workers. Experimentation on how to best maximize the interests of the young should be encouraged.

Recently, McDonald's Corporation quietly started a program in Missouri to respond to community concerns about youngsters working far into the night. We applaud this initiative and we hope that it spreads as rapidly as possible. Tragically, however, neglect is the byword of this industry when it comes to evaluating the interest of its young workers. While it is easy for us to blame industry, society must shoulder much of the fault. We simply have not been thoughtful and creative in responding to this problem.

Mr. Chairman, we should not delude ourselves into thinking that child labor abuse problems can be easily fixed or that government, alone, has the exclusive role and responsibility for correcting abuses. While increased government enforcement should be welcomed, enforcement will be effective only if the government is willing to seek significant penalties for those who break the law. A strong enforcement strategy will be most effective when carefully blended with monitoring and educational programs that encourage local solutions developed by thoughtful leaders from within government, education and local communities.

In closing, we have enclosed a copy of our Opportunity Brief that we have prepared on the subject of Workforce Preparedness. We trust that these comments will be helpful to you in pursuing this most important and timely inquiry.

Sincerely yours,

Amy B. Gleason

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National Safe Workplace Institute

Opportunity Brief

©NSWI, February, 1990

Workforce preparedness: The need to make work a constructive factor in the lives of teenagers

There is no issue more critical to the future of the United States than the development of our human resources—today's youth who will become tomorrow's workers. The interaction of school and work during a teenager's high school years plays a critical but neglected role in the development of that individual's orientation toward work. If U.S. teenagers are to be fully prepared for the complex and stressful challenges of our workplaces, then the interaction of school and work in the lives of teenagers must be (1) fully understood, and (2) constructive mechanisms must be established to ensure that work is a positive factor and that society's investment in public education is enhanced.

After substantial preliminary research, including interviews with employers, educators, youth specialists (counselors, psychologists, psychiatrists, etc.) , and others, the National Safe Workplace Institute has reached the preliminary conclusions that (1) there have been drastic changes in the work opportunities for teenagers, (2) the changes in work opportunities present threats to the development of teenagers as workers, and (3) thoughtful and creative alternatives are available to promote positive and constructive interaction between work opportunities for teenagers and school and family life. In particular, the Institute believes that current trends, if allowed to continue, will result in workers poorly prepared to deal with hazardous chemicals and toxic materials present in workplaces and with the other health risks associated with many occupations.

The changes that have taken place in our workplaces have come gradually. Industry, government, academic researchers, and educators have largely neglected how the role of work has changed the lives of teenagers. The remainder of this document will address key questions on this subject, background information on this issue, and the Institute's approach to addressing this most important and timely subject.

Key Questions

- What is the role of work in the lives of teenagers? How has that role changed in recent decades?
- What impact does work play in teenagers' development of values and attitudes toward future occupational choice?
- What has been the role of work in the ability of teenagers to manage safety and health risks?
- What has been the role of government, industry, schools and the family in influencing the work patterns and choices of teenagers?

Background

About four out of five teenagers will work this year. The share of the teenager population that is employed has grown in the past decade, the 1980's, after remaining constant from 1950 through 1979 at about 70%. (A major study shows that the Bureau of Labor Statistics has consistently under-estimated, by about 10%, the number of teenagers at work each year.) During the past two decades, however, there has been a dramatic shift in the work choices for teenagers. Just two decades ago, teenagers had abundant work choices. Today, two out of three teenagers that work are employed in the food service industry, with most employed in the fast food industry.

Based on preliminary research, the Institute believes that this shift in work opportunity has resulted in four notable differences in the work experience for teenagers. Teenagers in the food service industry:

1) *Are much less likely to have adult supervision.* Teenagers in the food service industry are typically supervised by other teenagers, often individuals with two or three months more work experience than themselves. By comparison, teenagers in other industries and teenagers of previous generations typically experienced adult supervision and mentoring.

2) *Are much more likely to work far into the night, even on school days.* An Institute survey involving more than 150 fast food outlet managers in Chicago, Philadelphia, Baltimore and Los Angeles showed that teenagers, as young as the age of 13, worked until 2 a.m. or later, even on school days. A review of educational performance in a central Illinois school system showed a dramatic decrease in educational attainment and school attendance for teenagers employed in the fast food industry. (Indeed, it is likely that such employment contributes to school drop-outs.)

3) *Have jobs that are much more mundane and repetitive.* Because of the rigidity and routine involved in the food service industry, teenagers do not have the variety of work challenges that teenagers in previous generations (or teenagers in other areas of work life) experience.

4) *Are much more likely to experience occupational stress.* Teenagers in the food service industry work at a frenetic pace, with information being communicated orally in a chaotic and often confused atmosphere. Research shows that sleep loss and other adverse health problems stem from employment at such late hours of the day.

These changes have come about gradually and unwittingly. The benign perception that the food service industry enjoys discourages scrutiny, examination and analysis. In recent years, teachers, educators, families and other institutions have come under sharp criticism for problems and dysfunctions that are associated with the educational system. For whatever reason, adequate attention has not been paid to the interaction of work and adolescent development.

Implications

Based on this preliminary research, there are a number of implications that concern the Institute. These include:

1. Recent studies have shown that teenagers who work during the school year often suffer a drop in grades. Remedial instruction spending by businesses and institutions of higher education, designed to strengthen reading, science and mathematics skills, has increased almost corresponding to the growth of the fast food industry.

2. Exposure to the stressful environment of the food service industry encourages drug and alcohol abuse, a breakdown in authority, and other forms of antisocial behavior.

3. Work in the fast food industry may contribute to poor work habits that limit a young person's ability to maximize career opportunities and may jeopardize future health and safety in the workplace.

It is imperative that the role of work in the lives of teenagers be understood and that, to the extent necessary, strategies be developed to ensure that work is a positive experience in the lives of teenagers.

Institute Strategy

The Institute recognizes that many teenagers must work and that work can and should be a positive experience. The Institute's work plan for addressing the role of work in the lives of teenagers focuses on (1) documenting the magnitude of the problem and (2) identifying creative and effective strategies that can help make work a positive experience. The Institute will prepare reports and manuals targeted at a variety of audiences in order to accomplish its goal of education while encouraging informed choice.

Documenting the Problem

The Institute has interviewed food service industry outlet managers in Chicago, Baltimore, Philadelphia and Los Angeles to understand what policies and programs the industry has established and implemented to ensure that work is a positive experience in the lives of teenagers. In 150 interviews, the Institute identified one outlet manager who had developed a program for monitoring educational performance for teenage workers. (In only one case did an outlet manager have any interest in the educational performance of his workers.)

The Institute's workforce preparedness initiative will be conducted by an inter-disciplinary team utilizing quantitative and qualitative study techniques. The Institute will examine educational performance, health, future occupational choice, antisocial behavior (including drug and alcohol abuse) and related issues.

Constructive Responses

The Institute believes that most teenagers who are employed must work. The Institute therefore will pursue constructive alternatives to the status quo. The Institute will examine the role of government, educators, families, local government and other appropriate institutions. To the extent possible, the Institute will build on responses already in place that appear to have promise if more widely applied.

Outcomes

The Institute proposes to produce documents that will place the issue of work in the lives of teenagers on the national agenda. Desired outcomes:

- a report in late-1990, featuring its findings using existing data (used for other purposes) as well as data developed by the Institute to frame consideration of the issue and how it should be pursued;
- a manual for school guidance counselors—as well as for other professional groups who assist teenagers—on how to approach this issue;
- an industry strategy for monitoring educational performance;
- a roundtable including representative groups (industry, government, educators, etc.) to examine issue and solutions; and
- other educational materials as appropriate.

The Institute has provided distinguished leadership on occupational safety and health issues through its purposeful approach to understanding problems and identifying meaningful and effective solutions.

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STATEMENT BY JOHN L. ZALUSKY, DEPARTMENT OF ECONOMIC RESEARCH
AMERICAN FEDERATION OF LABOR AND
CONGRESS OF INDUSTRIAL ORGANIZATIONS
BEFORE THE EMOLOYMENT AND HOUSING SUBCOMMITTEE
U.S. HOUSE OF REPRESENTATIVES

March 16, 1990

The enforcement of Child Labor laws is hampered by a lack of adequate numbers of Labor Department compliance officers, and by the failure to update and expand the coverage of "Hazardous Orders" that limit child labor in high risk jobs or industries.

The primary occupation of the nation's youth should be education and not work. The laws and regulations governing child labor should be directed at ways of enhancing education, not meeting the labor market needs of employers.

The Labor Department's renewed interest in enforcing existing child labor laws is encouraged. However, we are concerned that there are no additional funds for this activity.

We are afraid what we now see is ceremony -- a few demonstration "sting raids" on violators of the child labor laws and an announced increase in the civil penalties. One must put these efforts in context. As of January 1990, the Department of Labor has only 953 compliance officers. There has been no significant increase in the enforcement and compliance staff during the 1980's. But their work load is much broader then monitoring child labor.

In addition to the child labor provisions of the Fair Labor Standards Act they must enforce its overtime and minimum wage provisions, including the new training wage provisions effective this coming month; the Davis-Bacon, Service Contract and Walsh-Healey prevailing wage laws; Migrant And Seasonal Agricultural Worker Protection Act; the wage garnishment provisions of the Consumer Credit Protection Act; Employee Polygraph Protection Act; and a number of other laws.

There have been no commensurate staff increases as their new responsibilities have been added. The Fair Labor Standards Act was expanded to cover state and local government in 1986. The Employee Polygraph Protection Act was added in 1988 to the same section of the Wage and Hour Division that is responsible for the child labor regulations.

The Department of Labor also relaxed the bans on industrial home work under the Fair Labor Standards Act. They expect to do 2,350 investigation as result of this change alone.

The relaxation of the ban on industrial home work allows workers to perform work in the home that otherwise would have been done in a factory. Eliminating the bans on industrial homework increased the likelihood of exploitative child labor, and made enforcement of our child labor laws near impossible.

With industrial homework there is no way of telling how many hours were worked, when they were worked or who worked. A child labor violation in a homework setting is near impossible to prove.

It is claimed by the Labor Department that the added work load is being offset by improved management and efficiency.

This again is more appearance than substance. One of the "newer" efficient compliance techniques is called "conciliation." This is defined in the Field Operations Handbook as "limiting a complaint to a single employer and a single minor violation." This is really a euphemism for enforcement by a phone call.

The proportion of complaints handled by phone has increased from one-third in 1983 to over one-half now. Enforcement seems more efficient because the dollar value per compliance hour, and the number of complaints investigated per person hour increases in comparison to direct investigations. This looks good on the books and the 4(d) report to Congress, but it is not going to find child labor violators the way direct investigations will.

One can only speculate what the percentage increase in child labor violations would have been if direct investigations had been used, and serious penalties levied over the last 10 year.

When the Reagan Administration's proposals to relax the child labor regulations failed, the Secretary of Labor established the Child Labor Advisory Committee in 1987 with a broad mandate. The mandate is: "Provide advice and recommendations which will assist the Wage and Hour Division in effectively administering the child labor provisions of the Fair Labor Standards Act." It has representatives of schools, parents, labor and industry. All the members are knowledgeable and recognized as authorities in their area of expertise, and want to get on with the work of reviewing its existing hazardous orders.

However, the Department of Labor has slowed the progress. Meetings have been postponed, requests for testimony not acted on, and now there are plans to limit the mandate of the Advisory Committee, and supplanting some of its role with an Interagency Committee.

The resources of the Advisory Committee could and should be used to broaden and modernize the child labor regulations and hazardous orders, and that this work should move forward quickly.

For example, there are 17 child labor Hazardous Orders protecting children 16 and 17 years old. Most of these regulations were last reviewed in 1963, nearly 30 years ago.

Many of these regulations were adopted over 40 years ago and do not address the risks children now face in the work place.

* The hazards in the work place have changed perceptively. We know more about work place health hazards and this thinking should be a part of these regulations. With the exception of the agricultural standards for child labor the regulations do not address health risks to young workers. The OSHA standards are insufficient to protect youth -- they were designed for adults. For example, exposure to lead, has very different effects on the health of a maturing young person then on an adult. Other substances may have similar differential effects.

* The Hazardous Orders are concentrated on construction, manufacturing and transportation, but generally slight the service and retail sectors. Work in these industries has not been carefully assessed for the employment of youthful workers. It is simply presumed to be wholesome.

* Technology has changed. Lasers are common in construction and health care. Powder actuated hand tools (basically a hand gun that fires nails and bolts into concrete) are used in all facets

of construction. There is evidence that exposer to cathode ray tubes in office data processing for long periods can have adverse health effects. And, there is a new awareness of the long term health risks of repetitive tasks (carpal tunnel).

Fundamentally persons below 18 need to be protected from risk. The desire to work and acquire income may cause them to take employment risks they would not take as mature adults. Health hazards are a particularly insidious risk to youth. The impact may not be noticed for decades, and then devastate the worker while in the prim of life.